Supreme Court, U.S.
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No. _____

In The

Supreme Court of the United States

October Term, 1998

EMMA LEE PAUL,

Petitioner

vs.

WILLIAM MORROW And COMPANY, INC.,
CBS Inc., and SIMON & SCHUSTER, INC.

Respondent

On Petition for Writ Of Certiorari to the United States Court of Appeals for the Southern District of Florida

PETITION FOR WRIT OF CERTIORARI

Emma Lee Paul,
1540 N.W. 203 St.
Miami, Florida, 33169
Phone # 1-305-653-4221

Pro-Se Petitioner

These questions are raised for compelling reasons, and a decision so far departed from the accepted and usual course of judicial proceedings, by a lower court, as to call for an exercise of this Court's supervisory power when the plaintiff has substantial evidence proving access and substantial similaritites sufficient enough for a jury to find summary judgment unappropriate for the defendants.

1. Why was the Plaintiffs vaild copyright certificate on record overlooked?

2. Why did the court quote "the Plaintiff herself provided the court with copies of the interrogatory answers in which Alex Haley denied having such access, and plaintiff has offered no evidence refuting those statements or indicating that any of the other defendants had access to her work prior to the initiation of this lawsuit". When the Plaintiffs letter dated August 30, 1979 on record addressed to Alex Haley Prior to any lawsuit being filed against him which disproves his interrogatory answers to be untrue was overlooked?

3. How could the Plaintiff prove access when the lower court made clear the set forms sent would be all I could file to prove my case, but the page for access was overlooked?

4. Why was the Plaintiffs newspaper articles on record proving there were two others writers/editors employed with Doubleday Publishing Co. who assisted Alex Haley in the writing of Alex Haley's Roots naming Murray Fisher as one whom received 500,000, in royalties for his services overlooked?

5. Why was the Plaintiff ordered to use transcripts prepared by the defendants when contained no scenes made it impossible for me to prove my case overlooked?

6. Why was the Plaintiff denied her case when she could establish her claim by proving defendants had access and the two

works were substantially similar overlooked?

7. Why did the lower court compare individual features to determine specific similarities by plot, theme, characters, dialogue, mood, setting, pace, and sequence of events knowing it was the plaintiffs manner of expression to be the civil charge in questions?

8. Why did the lower court repeatedly ask the defendants to file their summary judgment in the transcript dated October 10th, 96?

9. Why did the lower court allow the defendant to become the judge in this case allowing the defendant to take charge and rule how and what I should do and use to prove my case, yet his concern was if done the defendants way I would loose my case yet he still overlooked this?

10. Why did the lower court mention numerous times he wanted to narrow not broaden, when his intentions was never to read the works in questions and if done so would be about January 1997 or later, meaning the substantial evidence on record was never viewed for any disputed matters for a jury?

11. Why was the plaintiffs constant insults of humilation by the defendants overlooked by the courts?

12. Why did the lower court say "finally the Plaintiff has failed to show that the defendants had access to the Plaintiffs work". using the declaration of David Stevens attesting to the fact that he had no access to the Plaintiffs or her work when he wrote Alex Haleys queen, when the facts are Queen is a sequal published to be of truth, yet it is confessed the works are fictionalized, when the defendants attorney quotes everything came from the head of David Stevens, David Stevens said it all come from Alex Haley. the Defendants said all the scenes were created by David Stevens and Alex Haley did not write any of the work or give any material

to David Stevens. Yet David Stevens said he was giving a seven hundred page outline for the works from Alex Himself, boxes and boxes of Haleys research was given to Stevens and Stevens wrote scenes with Haley on Haleys boat, and was given finished pages from Haley for the book, Finally David Stevens finds it hard to quantify how much of the book was written by Alex and how much by himself, why was all of these facts overlooked?

13. How can the Plaintiffs case as a matter of law be appropriate, when I was ordered not to file another exhibit or motion to prove my case, I was ordered not to discuss my prior case for it provides a background, yet the defendants were allowed to do so, when I tried to explain how access was taken in the prior case my opinions was never heard, why was as a matter of law overlooked for this case?

14. Why was the Plaintiffs request for a jury trial overlooked?

15. Why was the Plaintiffs complaint already on record overlooked?

16. Why did the lower court deny the Plaintiff motion for reconsideration due to access?

17. Why did it take the lower court almost one year to file their response from my motion to re-open this case?

18. Why did the appellant court refuse to view any of the evidence on record with the lower court when substantial enough to raise disputed questions?

19. How could CBS make a motion picture when the transcripts provided me contained no scenes, therefore impossible for CBS to create TV scenes using this script, especially the last "Fishnet" scene?

20. When will I be given the chance to prove access since that is what the lower court, and the higher court has basically used when granting in favor of the defendants summary judgment?

STATEMENT OF INTERESTED PERSONS

In accordance with rule 29.6 of the Supreme Court of the United States, I Emma Lee Paul, Pro Se, hereby list that the following persons have interest in the outcome of this case.

Emma Lee Paul

William Morrow and Company, Inc.

CBS, Inc.

Simon & Schuster, Inc.

Holland & Knight, LLP

Judge Federico A. Moreno

Judith M. Mercier

Sanford L. Bohrer

Estate Of Alex Haley

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In reference to Case No. 97-4511-95-2414-Civ-Moreno I, Emma Lee Paul respectfully petitions this Court by writ of Certiorari in hopes you the Supreme Court will grant this petition for review of judgment affirmed from the United States Court of Appeals for the Southern District of Florida, not as a matter of right, but of judicial discretion.

OPINIONS BELOW

Case No. 95-2414 Civ-Moreno on file for public view, location: United States District Court of Miami Florida: (no further information available here)

STATEMENT OF JURISDICTION

The Date on which the United States Court of Appeals decided my case was May 19, 1997 this petition is filed under Rule (11th Cir. 1994)

A timely Petition for rehearing was denied by the United States Court of Appeals on the Following date August 3, 1998

In reliance to rule 12 (5): Date of docketing Petition for Writ Of Certiorari : November 1, 1998 Date of Cross Petition to be filed - December 1, 1998

This Court has Jurisdiction pursuant to 28 U.S.C. s1254 (1)

I am in compliance with title 28 U.S.C. 2403 (a),(b) and title 28 U.S.C. s.451

STATUTORY PROVISIONS INVOLVED

Article 1, Section 8: Of the Constitution of the United States of America: The congress shall have the power to promote the progress of Science and useful arts, by securing for limited times to Authors and inventors the exclusive right to their respective Writings and Discovers.

Amendment 7 of the Constitution of the United States of America: in suits at common law , where the value in controversary shall exceed twenty dollars, the right by jury shall be perserved, and no fact tried by a jury, shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.

Amendment 9 of the Constitution of the United States of America: The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Copyright Act of 1976: This comprehensive Federal statue governs copyright protection for original works of authorships created after January 1, 1978. Found in Title 17, United States Code, section 100 and following, the 1976 copyright act (as been amended from time to time) is the exclusive source of Copyright law in the United States.

* * *

The Present Statue, essentially the 1909 act with later amendments, is Title 17 of the United States Code. Until a work is published, the exclusive rights of the author and his successors to reproduce and disseminate it are protected by the common law of the several states.

Title 17 United States Code: statue 101- Copyright owner has two distinct meanings. First it refers to the person or entity who is

listed as the owner in the U.S. Copyright office (Which provides a valid copyright) Second Copyright refers to a person or entity to who owns one or more of the five exclusive rights that make up the whole copyright, and who therefore has a right to sue infringers of that right. (these are constituent rights, -to reproduce (Copy) the work -to prepare derivative works -to distribute copies of the work. -to perform the work.-and the right to display the work)

* * *

The Copyright law automatically applies and protects the original expressing creative ideals, (but not the ideal themselves) the instant it becomes fixed in a tangible form.

* * *

The Copyright owner with respect to any one of the exclusive rights comprised in a copyright, refers to the owner of that particular right.

* * *

Infringement of a copyright can be treated as a federal crime under the copyright Act of 1976 (17 U.S.C., section 506) if it is done intentionally and with full knowledge that an infringement has occured.

* * *

Title 17 of the United States Code: Statue 506(a): Criminal Infringement--Any person who infringes a copyright willfully and for purposes of commercial advantage or private financial gain shall be punished as provided in section 2319 of title 18.

Title 17 of the United States Code: Statue 102(a): because copyright act protects Original works of authorship "sine qua non"

of copyright is originality.

Title 17 of the United States Code: Statue 106: A copyright consists of bundle of rights held by the author or developer of an original work of authorship:

.the exclusive right to make copies
. the exclusive right to authorize others to make copies
. the exclusive right to make derivative works (that is, similar work
based on the original)
. the exclusive right to sell the work
. the exclusive right to display the work
. the exclusive right to perform the work
. the exclusive right to obtain relief in the event others infringe these rights.

STATEMENT OF THE CASE

A. Nature of the Case

This is a petition for writ of Certiorari on the courts affirmation of summary judgment in favor of the Defendant/Appellees. This action stems from a copyright infringement suit that was filed by me the Plaintiff/Appellant Miss Emma Lee Paul on November 1, 1995. I Miss Paul have been representing myself "Pro-Se"since the withdrawl of my attorney due to his illness. In my suit I allege copyright infringment of my manuscript entitled "The Bold Truth" by William Morrow and Company, CBS Broadcast, and Simon & Schuster in their production of Alex Haley and David Steven's Queen Tv mini-series, Queen Book and Queen cassette Tapes.

On December 27, 1996 the Defendants/Appellees filed a motion for summary judgment, on February 25, 1997 their summary judgment was granted. August 3, 1998 my request for a rehearing with the Appeals court has been denied, June 22, 1998 the Appeals court Order for summary Judgment affirmed for the

defendants. Issued as mandate August 27, 1998.

B. Facts

1.) Plaintiff holds a Valid Copyright:

On April 1, 1976, I the Plantiff Emma Lee Paul obtained a certificate of registration for my unpublished manuscript, "The Bold Truth" from the U.S. copyright office Registration Number A731165 on File with District court Dck no. 3 dated 11-1-1995. (e.g Fiest Publications, Inc, v. Rual Telephone Service Co., 499 U.S. 340 111 S.Ct.1282, 1296 113 L.Ed.2d 358 (1991): Bellsouth advertising & Publishing, Inc. 999 F.2d 1436,1440 (11th Cir. 1993) (en-banc) also see (e.g Mitek Holdings. Inc. v. Arce Engineering Co., Inc., 89 R.3d 12548, 1553 (11th Cir. 1996) In February 1993, CBS first broadcoast the Movie Alex Haley & David Steven's Queen, upon seeing the broadcast of the mini-series "Queen", I the Plantiff/Appellant became aware that the expressions was very similar to my unpublished manuscript "The Bold Truth". I then purchased a copy of "Queen" Mini-series (three tapes) "Queen" book along with "Queen" audio cassette tapes, (four tapes) I then began to compare the works in question the similarites of my protected expressions were too many. Convinced my unpublished manuscript was reproduced and spread by form of dissemiation throughout the body of the three works I initiated this lawsuit against my three infringers.

2.) Plaintiff has substantial evidence that provides access by defendants.

Plaintiff has substantial evidence (e.g. Appendix F) that provides proof access was taken by the defendant and should be re-viewed by this superior court for these three reasons:

First-- the defendants author David Stevens Quotes: a) Alex Haley assisted with him in the writing of the works, b) Alex Haley provided to him boxes and boxes of research to use in

making the works, c) Alex Haley provided to him a seven hundred page outline for the works d) Alex Haley provided him with finished pages for the book e) Alex Haley helped write scenes with him on Haleys boat. f) David Stevens quotes he cannot quantify how much was written by Alex and how much was written by he. g) and the defendants attorney said everything came from the mind of David Stevens, Yet Stevens said it came from the mind of Alex Haley. Repeatedly the defendants attorney said Alex Haley did not write any of the work, and repeatedly Stevens said he did. The defendants opinions in the transcript dated October 10, 1996 when compared to the declaration of David Stevens and then comparing both to the Queens Afterwords by David Stevens does not match there is a different story in each of the works presented. To the court Queens works are confessed to all be fictionalized, even Andrew Jackson is made up, yet the cover of Queen alone quotes very different. To we the public Queen is published and sold as non-fiction by Morrow a true novel written as a sequal to Alex Haleys Roots.

Second-- I was court ordered not to discuss my prior case in New York against Alex Haley because it provided a background yet those interrogatory answers I presented to the lower court was used by the defendants to win summary judgment, those interrogatory answers which are under oath dated 1986 stipulated in 1987 said Haley had never heard of Emma Paul or my manuscript "The Bold Truth", the substantial evidence a letter on record with the lower court dated August 30, 1979 to Alex Haley from my attorney Kenneth Henson which quotes prior to any lawsuit names Emma Paul and The Bold Truth, this proves those interrogatory answers the defendants relied on so heavily to be wrong. Also filed on record with the Lower court factual evidence that proves there was two other writers that assisted Alex Haley who were not only close friends but editors at Doubleday Publishing where access was obtained by Haley and passed on to David Stevens. With all of this evidence none, not a single peice was considered by the courts, evidence substantial enough to raise disputed matters clear enough for a trial.

Third-- Because of the substantial evidence filed on record , Today I raise the questions of Judical discretion, the awareness of this case was just not there. No one wants to take the time and view the evidence that could prove my case of infringment, when all the evidence is viewed summary judgment should be reversed and I should get a trial to prove all this evidence has been from the begining available to prove my case. (e.g Beal , A Supra, 20 F.3d at 459 Mitek Holdings, Inc. v. Arce Engineering Co., 89 R.3d 1548, 1553 (11th Cir. 1996) also see (e.g Original Appalachian Artworks, Inc. v. Toy Loft, Inc., 684 F.2d 821, 829, & n. 11 (11th Cir. 1982) also see (e.g Thompson: United States v. Reyburn, 6 Pet (31 U.S) 352, 367) also see (e.g Stone:L Interstall Circuit v. United States, 306 U.S. 208, 226) and see (e.g Hughes: Consolidated Edison Co. vs. NL RB, 305 U.S. , 197, 229)

3.) Plaintiffs manner of expressions are protected as a matter of common law from reproduction and dissemination.

The present Statue, essentially the 1909 act with later amendments, is Title 17 of the United States code. Until my work is published, my exclusive right as the author keeps successors from reproducing and disseminating my work as a matter of common law of this state. An inference of coping may arise where there is proof of access to the material with a showing of similarity. (e.g Golding v R.K.O. Pictures, Inc., 35 Cal.2d 690, 695) that's why it was so important for the defendants to make sure my evidence proving access was never mentioned in the transcript dated October 10, 1996, the judge relied wholely on the defendants opinion ordering my silence. Summary judgment was unappropriate when granted in favor for the defendants when my protected expressions are compared in a way of just being similar.

4.) Therefore as a matter of law the Plaintiff holds a valid copyright claim against her infringers.

Because the copyright acts protects "original works of authorship "Sine qua non is original (e.g. Fiest Publications,

Supra, 499 U.S.at 345, 111 S. Ct. at 1287). and when called upon to adjudicate a copyright dispute a court must compare the works in question. (e.g Autoskill, Inc. v. National Educ. Support Sys., Inc., 994 F.2d 1476, 1490 (10th Cir.) cert. Denied -U.S. 114 S. Ct. 307, 126 L.Ed.2d 254 (1993) With that in mind, independently the court should review the books, the motion picture involved in the lawsuit, and briefly summarize them. In this case the Judge confessed he had not read any of the the evidence sent or the works involved in the suit, he never saw the Queen movie, or the 61 scenes I prepared for my case, per his quotes his intentions was not to do so until January 1997 or later. Therefore as a matter of law the Plaintiff holds a valid copyright claim against the defendants when I can show I have a valid copyright, and I can prove access was obtain by the defendants author David Stevens, and I can prove Substantial similarities by way of dissemination and reproduction under the present copyright law this is infringment by the defendants and by law I have this right to file suit and have my case presented viewing everything available to do so. Court is said to always be open, (e.g Title 28, Appellate Procedure R.452) for me as Pro-Se I beleive it never was. Parties appearing Pro Se are allowed greater latitude with respect to reasonableness of their legal theories. (e.g Patterson v. Aiken, 111 F.R.D. 354, 358 (N.D. Ga. 1986) Issue presented in trial court...would be subject to review by this court. (e.g. Number GAC Corp. v. Beach, 308 So.2d 550 [Fl.2d DLA 1975].

C. Statement of Court Proceedings

A) First Court of proceedings.

I the Plaintiff, Emma Lee Paul filed my complaint with the United States District Court, 11-1-95, entry 11-7-95 Magistrate Identification also include was manuscript & my valid copyright certificate 11-1-95, entry 11-7-95 (dkt 1) I demanded a Jury trial 11-1-95, entry 11-7-95, (dkt 2) Summons issued by William Morrow, CBS, Inc. & Simon & Schuster 11-1-95 entry 11-7-95, I

filed a valid Copyright proving ownership 11-1-95, entry 11-7-95 (dkt 3) Answers to Complaint from Simon & Schuster 1-5-96 entry 1-10-96, (dkt 12), Answers to Complaint from CBS, Inc. 1-5-96, (dkt 12) Answers to Complaint from William Morrow 1-5-96, (dkt 14) Order referring case to mediation. 1-18-96, entry (dkt 19), Scheduled Order for Jury trial for November 12, 96 dated 1-18-96, entry 1-23-96 (dkt19), My attorney Joseph Zallen withdrew from my case due to illness 2-28-96, entry 3-5-96, intent to go Pro Se filed 3-20-96, entry 3-20-96,(dkt 27) Motion to file exhibits 9-3-96, entry 9-11-96 (dkts 32 and 33) Motion to file exhibits 9-11-98, entry 9-18-96 (dkt 34) Order setting status conference 9-13-96, (dkt 35) Motion by me to subpoena all notes from David Steveson re "Queen" 10-4-96, entry 10-15-96, (dkt 36), I filed my The Bold Truth Manuscript 10-10-96, entry 10-21-96, (dkt 37) Status Hearing Held 10-10-96, (dkt 38) motion to file exhibits 10-16-98, entry 10-24-96, (dkt 39) Notice of filing Queen by defendants 10-18-98, entry 10-25-96) (dkt 40), Order requiring plaintiff to file documents 10-21-96, entry 10-28-98, (dkt 41) notice to filing pleadings 11-18-96, enty 11-20-96, (dkt 43, 44, 45) Order Granting motion for Summary Judgment 1-24-97, entry 2-25-97 (dkt 58) Final Judgment/order dismissing the case 2-25-97 entry 3-3-97(dkt 59) Case closed 2-25-97 entry 3-4-97 (dkt --) motion by plaintiff, Emma Lee Paul, for reconsideration of order closing case 3-7-97 entry 3-13-97, (dkt 60) Motion by me to Reopen/reconsideration of order dismissing case showing proof of access 3-10-97 entry 3-14-97 (dkt 61), order denying motion for reconsideration (dkt 62) motion by plaintiff for return of Property dated 3/24/97 (dkt 64) Order denying motion for return of property and motion to re-open case dated February 9, 1998 (dkt ?)

B.) Second Court of Proceedings: (some I cannot show dkt #s, view all appendix each set out verbatim)

I the Plaintiff Emma Lee Paul then filed a motion to the United States Court of Appeal 3-24-97, entry 3-25-97, then Plaintiff filed a motion of new evidence 3-31-98 (dkt 66) motion

of additional evidence by plaintiff 4/14/97 (dkt 67) plaintiff filed synopsis letter 5/1/97 (dkt 69) Transcripts filed re: Status conference 6/19/98 (dkt 70) May 19, 97 Memorandum to counsel or parties docketing of case in appeals court, September 17, 97 Notice sent to District court from Appeals court asking for receipt of Certificate of readiness, November 10th, 97 Memorandum to Counsel or Parties record complete for appeal, December 1, 1997 Motion to file Record excerts, Briefings to prove access and motion to file proving Substantial Similarities by the Plaintiff,-------- Decem ber 8, 97 motion to file corrections by plaintiff, December 15 motion to file corrections #2 by plaintiff, Jan 15 Appellants brief accepted, appellees briefs due 2/18/98 Feb 17, 98 Motion from appellees for extension of time. February 17 motion from plaintiff to file understanding concerning receipt of February 9, 98 denial from district court took them a year, March 3, 1998 Answer briefs from appellees filed, March 14, Motion to file response on time from Plaintiff, March 14, 98 motion to file showing access clearly, March 20, 98 Reply brief from Plaintiff accepted on time June 22, 98 Memorandum to Councel or parties Order: appellant's motion to supplement materials on appeal is denied in part, etc, June 22 Judgment for appellees has been entered, July 9, 98 Petition for rehearing filed from Plaintiff, August 3, 1998 Petition for rehearing has been denied, August 27, issuance of mandate denied, August 27, case closed opinions hereby issued as mandate of the appeals court.

C.) Federal Jurisdiction in the court of first instance 28 U.S.C. s1338 (a)

REASONS FOR GRANTING THE WRIT

The District Court incorrectly Granted Summary Judgment to the Defendants where there is Substanial Evidence found on record sufficient for a jury to find (1) Proof of Ownership by Plaintiff which consist of a valid copyright. (2) and by showing Defendants had access to the Plaintiffs work and the works are substantially similar in protected expressions.

I

As a matter of law I the Plaintiff have substantial evidence on file with the United States District Court that proves I have a valid copyright naming me as the owner of The Bold Truth, making my manuscript an orignial once my words were set in a tangible form. (e.g Roberts: United States v. Dublieer Condenser Corp., 289 U.S.178, 188) To prevail a copyright infringement I must prove ownership and that the defendant copied protected elements of the Plaintiffs work (e.g Mitek Holdings, Inc. v. Arce Engineering Co., Inc., 89 R.3d 1548, 1553 (11th Cir. 1996) also see (e.g Fiest publications, Inc. v. Rual Telephone Service Co., 499 U.S. 340 111 S.Ct. 1282, 1296, 113 L.ED.2d 358 (1991: Bellsouth advertising & Publication Corp. v. Donelley Info. Publishig, Inc. 999 F.2d 1436,1440 (11th Cir. 1993 en banc). even though a copy of the certificate was on record with the lower court and the defendants did not dispute this fact I provided a valid copyright which proves ownership the court somehow overlooked this very important fact. One substantial enough to raise a dispute between the owner of the works in question so critical it would destroy the fact the defendant no longer were the independant creators.

An Inference of copying may arise where there is proof of access to the material with a showing of similarity. (e.g. Golding v. R.K.O. Pictures, Inc., 35 Cal. 2d 690, 695 (1950) where there is strong evidence of access, less proof of similarity may suffice.(Id). Once it is established that there has been no direct copying plaintiff is first required to show that the defendant had access to

the plaintiffs work. (e.g. Beal, Supra, 20 F.3d at 459. Mitek Holdings, Inc. v. Arce Engineering Co., 89 R.3d 1548 (11th Cir. 1996). Second the Plaintiff must show that the defendants work is substantially similar to the plaintiffs protected expressions. (e.g. Id. Howard v. Sterchi, 974 F.2d 1272 (11th Cir. 1992) also see (e.g Original Applalachian Artworks, Inc. v. Toy Loft, Inc, 684 F.2d 821,829, & n. 11 (11th Cir. 1982). When the court was called upon to adjudicate a copyright dispute a court must compare the works in question.(e.g Autoskill, Inc. v. National Educ., Support Sys., Inc., 994 F.2d 1476, 1490 (10th Cir.). cert. Denied,,-U.S.- 114 SA. Ct. 307, 126 L.Ed.,2d 254 (1993). With that in mind, we have independently reviewed the book and the motion picture involved in this lawsuit, and will begin by briefly summarizing them.) This was never done, my case was viewed in light of the defendants when in fact the transcript (e.g Appendix F) provided to the Plaintiff contained no scenes to prove my case therefore making it impossible to show the similarities proper for the court or a jury to see the similarities in questions and impossible for CBS to have used to broadcast the Tv scenes of the miniseries Alex Haley and David Stevens "Queen" live on National Television.

Because the Copyright act protects "original works of authorship (17 U.S.C. 102 (a) The sine qua non of copyright is originality" (e.g Fiest Publications, Supra, 499 U.S. at 345, 111 S.Ct. at 1287). The defendants made it clear to the lower court how to rule my case allowing them to become the Judge, they used that influence with the court repeatedly reminding them I had no lawyer, the defendants unfairly embarrasses, humiliates intimidates and harasses invading the plaintiffs privacy which absent a clear statment on the record explaining how the answers to the questions will constitue or lead to competent evidence admissiable at trial. (e.g. U.S. District Court, Southern District, R.30.1 (a5,c) Parties appearing Pro Se are allowed greater latitude with respect to reasonableness of the legal theories (e.g. Patterson v. Aiken, 111 F.R.D. 354, 358 [N.D.Ga. 1986]) when you apply the citings to the Plaintiffs case none of the above was viewed, the

awareness of the case does not apply. When the command is addressed to him the judge, since the duty is his, he may not escape it by delegating it to others (e.g. Cardozo: People Ex Rel. Price v. Shef-Field Farms Co., 225 N.Y. 25, 29) A duty declared by Congress does not evaporate for want of a formulation sanction (e.g. Frankfurther: Montana-Dakota Util. Co. v. North Western Pub. serv. Co., 341 U.S. 246, 261).

II

Due to questions of factual when confessed to be all fiction pretaining to the published works of Alex Haleys and David Stevens Queen by the defendants William Morrow and Co. Inc. (Publication in way of the Novel, "Book",) CBS Inc., (Publication in way of three "Audio Tapes", Broadcast through Television), and Simon & Schuster, Inc. (Publication in way of three Audio Cassette Tapes) raise imperative public importance and requires immediate determination by this Court. (e.g title 28 U.S.C. s 2101 (e). Also let it be known that when infringment of a copyright is done intentionally and with full knowledge that can be treated as a Federal crime under the Copyright Act of 1976. (e.g Title 17 U.S.C., section 506). It is against the law to produce and sell a product to gain a profit as truth to the public, then confess to you the courts to be all made up, to be of no truth. The Constitution of the United States does not secure to anyone the priveledge of defrauding the public (e.g. Harlan: Pluniley v.Massachusetts 155 U.S. 461,479). The Public purpose is to promote the progress of science and useful arts: the exclusive right of the inventor is but the means to that end. (e.g. Douglas: Special Equip. Co. v. Coe, 324, U.S. 370, 382)

III

Due to the questions I have raised to you the Supreme Court I ask for review based upon judicial discretion and not as a matter of right, when you apply as a matter of law to the case the awareness of those laws was never considered when an oath is taken by

the Judge and that of an Attorney you are taking that oath through Congress to protect we the people, you are to take notice of the case your interest as a Judge is the Judge, and or Attorney the Attorney you are to consider the entire case to its length even if you have to review the entire case by reading, reviewing, comparing, advising so forth. A court of equity ought to do justice completely and not by halves (e.g Sutherland: Rice & Adams Corp. v. Lathrop, 278 U.S. 509, 515) . In this case the plaintiff because I was pro-se was looked at as having no meaning, the Judge wanted to do nothing but narrow not broaden. I saw Queen on television, I read Queens Book, and I heard Queens cassette tapes, My Civil claim was Alex Haley stole my life my language, The Judge confessed he had not read my evidence, confessed he knew little of this type case allowing the Attorney to become the Judge rule the case on how when, and what I was to use to prove my Case, even aware if done so I would loose my case.

IV

I feel there is a conflict between the Appellant court and the District court when I requested my five pages naming: Alex Haley interrogatory answers (2 pgs) the Village voice (1 pg), and the Kenneth Henson letter (2pgs) be viewed pretaining to access on docket 32,33, and 34 (etc.) Per the United States Appellant Court for the Southern District of Florida my motion was denied because the materials were not presented to and considered by the district court. The conflict is they were presented to the lower court.

When You apply the laws of the Constitution questions are raised when the law is not applied, Congress has the power securing to Authors exclusive right to their respective writings, (e.g. Article 1 Section 8) Congress has the power when in suits of common law the right by trial by jury shall be perserved and rights shall not be construed to deny or disparage others retained by the people. (e.g. Amendment 7 and Amendment 9). The copyright owner has two distinct meanings , one the proof of a valid

copyright, and second owns one or more of the five exculsive rights which is the bundle of rights held by the author of an original work. (e.g Title 17 U.S.C. 101 and 106) Because the Judge was unaware of the procedure of this type case as a matter of law the rules that apply to this type case maybe he never even considered, for this reason alone your power to review is essential. (e.g Title 28, Appendix-Rules of Evidenc; R. 102, R.103, R. 104, Cf. California Evidence code 210) or (e.g Federal Rules of Civ. Procedure. R. 43 (e) R. 52(b) R. 59 (a-2) or (e.g. Fed. Rules Appellant Procedure R.4 (b) or (e.g U.S. District Court, Southern District, R. 30.1 (a5,c) and (e.g Title 28 Rules of Judical Procedure R. 452, R. 2071(a), R.2072 (a)) .

Substantial evidence is more than a mere scintilla. It means such relevant evidence as a resonable mind might accept as adequate to support a conclusion: (e.g. Hughes: Consolidated Edison Co. vs. NL RB, 305 U.S.197, 229) I ask you the Supreme Court to except my petition for writ of Certiorari not as a matter of right but as a matter of judical discretion, granting me the Plaintiff Petitioner a re-veiw of my case by you the Supreme Court for further proceedings. Our society is entitled to every man's evidence (e.g. Frankfurther: Rios v. United States, 364 U.S. at P. 234).

V

In conclusion of the legal analysis, the Plaintiff has established copyright infringement as a matter of law when she provided a valid copyright proving ownership and copying of constituent elements of the work that are original (e.g. Fiest Publications, Inc. v. Rual Telephone Sevice Co., 499 U.S. 340 111 S. Ct. 1282, 1292,113, L.Ed.2d 358 (1991): Bellsouth advertising & Publishing Corp. v. Donelley Info. Publishing Inc. 999 F.2d 1436,1440 (11th Cir.1993) and Because the copyright act protects my original works of authorship in the form of "sine qua non" my copyright is original. (e.g Fiest Publications, Supra, 499 U.S. at 345, 111 S.Ct. at 1287).

When it is established that there was no direct copying the plaintiff is first required to show that defendant had access to the plaintiff's work (e.g Beal, Supra, 20 F.3d at 459. Mitek Holdings, Inc. v. Arce Engineering Co., 89 R. 3.d 1548 (11th Cir. 1996) Second the plaintiff must show that the defendants work is substantially similar to the plaintiff protected expression. (Id. Howard v.Sterchi, 974 F.2d 1272 (11th Cir.1992) also (e.g Original Appalachia Artworks, Inc. v. Toy Loft, Inc, 684 F.2d 821,829,& n. 11 (11th Cir.1982) Conduct which forms a basis for inferrence is evidence. Silence is often evidence of the most persuasive character (e.g. Brandesis: United States Ex Rel. Belokumsky v. Tod, 263 U.S. 149, 153-154) Because the courts denied the plaintiff opinions to be heard October 10, 1996 And totaliy unaware plaintiff ask for a jury trial in 1995, and unaware filed on record the plaintiffs offer of evidence indicating that Alex Haleys interrogatoies answers are proven to be incorrect used those answers when granted summary judgment in favor of the defendants. Even upon plaintiffs motion asking for reconsider-ation because of the errors to do with access my plea to be heard was denied. In light of judical discretion, realities must dominate the judgment (e.g Hughes:Apalachian Coals v. United States, 228 U.S. 244, 360) no matter how the defendants want to rule this case, Judgment ceases to be judicial if there is condem-nation in advance of trial. (e.g. Cardozo: Escoe v. Zerlist, 295 U.S. 490, 494)

In conclusion I ask you the Supreme Court to grant my petition for writ of Certiorari based on compelling reasons the plaintiff holds a valid copyright, and the plaintiff has offered substantial evidence that can prove those interrogatory Answers of Alex Haley to be incorrect raising disputed matters sufficient enough for a jury to find summary judgment unappropriate in favor of the defendants.The plaintiff can prove access and substantial similarities of plaintiffs protected expressions and use of language by dissemination throughout the body of all three works. And, theres the conflict between the defendants attorney and David Stevens of the involvement Alex Haley had in the

assistant of the works, this also raises question's of dispute of defendants Access.

The decision frustrates the intent of Congress and cannot be reconciled with that of the Eleventh Circuit in the United States Court of Appeals, leaving participants facing uncertainly over matters that go to the heart of copyright law. Because of the importance of the questions presented by this petition, this Court should exercise its supervisory jurisdiction setting this case for review.

Respectfully submitted

Emma Lee Paul

Emma Lee Paul
1540 N.W. 203rd St.
Miami, FL 33619
phone (305)-653-4221

Pro-Se Petitioner

APPENDIX

APPENDIX A ---OPINION OF THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT COURT OF THE SOUTHEN DISTRICT OF FLORIDA

UNITED STATES COURT OF APPEALS
Eleventh Circuit
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

Miquel J. Cortez
clerk

Carlos Juenke
Clerk, U.S. District Court
Federal Courthouse Square, 301 N. Miami Ave.
Miami, Fl 33128

Re: 97-4511 Paul V. William Morrow and Company
DC DKT NO.: 95-02414 CIV-FAM

We have not yet received the certificate of Readiness in this case from your office. We understand that the record has been complete for purposes of appeal for some time. We have previously requested that the certificate of Readiness be transmitted to our office. Please either promptly forward the Certificate of Readiness to our office or advise us of any circumstances which prevent transmittal at this time.

Sincerely,

s/ Miguel J. Cortez, Clerk

Reply to: Dwight Briggs (404) 331-3843

Appendix A

United States Court of Appeals
Eleventh Circuit
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

Thomas K. Kahn
Clerk

June 22, 1998

MEMORANDUM TO COUNSEL OR PARTIES

RE: 97-4511 Paul v. William Morrow and Company
DC DKT NO.: 95-02414 CIV-FAM

Enclosed is a copy of the court's decision filed today in this appeal. Judgment has this day been entered pursuant to Rule 36 of The Federal Rules of Appellate Procedure. Fed.R.App.P. 39, 40 and 41, and the corresponding circuit rules goven costs, petitions for rehearing and mandate, respectively.

To be timely, a petition for rehearing or a suggestion of en banc consideration must be received in the clerk's office within twenty-one (21) days of the date of this opinion and judgment, except that: in CIVIL cases in which the United States or an agency or officer thereof is a party, the time within which any party may seek rehearing shall be FORTY-FIVE (45 DAYS) after entry of judgment. See Fed.r.app.p. 40 (a) No additional time for service by mail is permitted. See 11th Cir.R. 40-2 If attorney's fees on appeal are authorized by law they must be sought by filing a petition for attorneys's fees with this office within fourteen (14) days of the date of this letter. Davidson v. City of Avon Park, 848 F.2d 172, 174 n.4 (11th Cir., 1998).

Appendix A

Pursuant to Fed.R. App.P. 39, costs taxed against plaintiff-appellant.

Sincerely

s/ Thomas k. Kahn, Clerk

Reply to: patty S. Alexander (404) 335-6161

P.S. Order enclosed

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

[Stamped filed U.S. Court of Appeals Eleventh Circuit Jun 22 1998Thomas K. Kahn Clerk]

EMMA LEE PAUL, of Miami, Florida,

Plaintiff-Appellant,

versus

WILLIAM MORROW AND COMPANY, INC.,
of New York, New York,
CBS Inc, New York, New york, et. al.,

Defendants-Appellees,

Order:

Appellant's motion to correct typing errors is denied as moot.

Appendix A

Appellant's motion to supplement materials on appeal is denied in part, and is moot in part. With respect to the portions of the materials already in the record, the motion is moot. With respect to the remaining materials, the motion is denied because the materials were not persented to and considered by the district court.

s/ cannot read the Judges name
UNITED STATES CIRCUIT JUDGE

[DO NOT PUBLISH]
IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 97-4511
Non-Argument Calendar

D.C. Docket No. 95-2414-CIV-FAM

[stamped filed U.S. Court of Appeals Eleventh Circuit Jun 22 1998
Thomas K. Kahn Clerk]

EMMA LEE PAUL, of Miami, Florida,

Plaintiff-Appellant,

Versus

WILLIAM MORROW AND COMPANY, INC.,
of New York, New York,
CBS, INC., of New York, New York,
SIMON & SCHUSTER, INC., of New York, New York,

Appendix A

Defendants-Appellees,

Appeal from the United States District Court for the Southern District of Florida

---

(June 22, 1998)

Before TJOFLAT, BLACK and HULL, Circuit Judges

PER CURIAM:

Planitiff Emma Lee Paul appeals the entry of summary judgment in favor of defendants William Morrow and Co., CBS Inc., and Simon & Schuster, Inc. in her pro se action for copyright infringement. Paul claims that the defendants copied portions of her unpublished manuscript, The Bold Truth, in their publication of Alex Haley's Queen, authored by Alex Haley and David Stevens. The gist of her claim is that the two works are substantially similar and that the defendants were given access to her manuscript (and thus the ability to copy from it) by Alex Haley, who had obtained it from Doubleday Company, the publisher to which she had submitted the manuscript.

Summary judgment is proper when, viewing the evidence in the light most favorable to the nonmoving part, there is no genuine issue of material fact and the moving part is entitled to judgment as a matter of law. Beal v. Paramount Pictures Corp., 20 F.3d 453, 458 (11 th Cir 1994), cert denied, 513 U.S. 1062, 115 S.Ct. 675, 130 L.Ed.2d 607 (1994). This court reviews de novo a grant of summary judgment. Id, at 459. Having considered the record in this case, we conclude that the entry of summary judgment in favor of the defendants was appropriate.

To establish copyright infringement, a plaintiff must establish

the following elements: (1) that the plaintiff has a valid copyright and (2) that the defendants copied constituent elements of the work that are original. Id. Because a plaintiff can rarely establish the second element by showing direct copying, we have held that a plaintiff satisfies that element by showing indirect copying; that is (1) that the defendants had access to the plaintiffs work and (2) that the defendants work is substantially similar to the plaintiffs protected expression. Id. Because Paul does not contend that the defendants directly copied portions of her manuscript, The Bold Truth, we assume that she relies on this two-part test for indirect copying. She fails to meet that test because the record does not permit the inference that the defendants had access to her work. All the record establishes is that Paul submitted her manuscript to Doubleday, it does not establish-- either through direct or circumstantial evidence-- that Doubleday passed the manuscript on to Haley, and that he, in turn, passed it on to the defendants.

AFFIRMED.

UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 97-4511
Non-Argument Calender

District Court Docket No. 95-2414-CIV

(stamped filed U.S. Court of Appeals Eleventh Circuit Jun 22 1998 Thomas K. Kahn Clerk)

EMMA LEE PAUL, of Miami, Florida

Appendix A

Plaintiff-Appellant,

Versus

WILLIAM MORROW AND COMPANY, INC.,
of New York, New York
CBS, INC., of New York, New York,
SIMON & SCHUSTER, INC., of New York, New York,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Florida

Before TJOFLAT, BLACK and HULL, Circuit Judges.

JUDGMENT

This cause came to be heard on the transcript of the record from the United States District Court for the Southern District of Florida, and was taken under submission by the Court upon the record and briefs on file, pursuant to Eleventh Circuit Rule 34-3;

Upon consideration whereof, it is now hereby ordered and adjudged by this court that the judgment of the said District Court in this cause be and the same is hereby affirmed;

IT IS FURTHER ORDERED THAT plaintiff-appellant pay to defendants-appellees, the costs on appeal to be taxed by the clerk of this Court.

Entered: June 22, 1998
For the Court: Thomas K. Kahn,
Clerk

Appendix A

By: s/ Matt Davidson
Deputy Clerk

ISSUED AS MANDATE: August 27, 1998

IN THE UNITED STATES COURT OF APPEAL

FOR THE ELEVENTH CIRCUIT

No. 97-4511

(Stamped Filed U.S. Court of Appeals Eleventh Circuit Aug 27 1998 Thomas K. Kahn Clerk)

EMMA LEE PAUL, of Miami, Florida,

Plaintiff-Appellant,

versus

WILLIAM MORROW AND COMPANY, INC., et al,

Defendants-Appellees.

On appeal from the United States District Court for the Southern District of Florida

---

Appendix A

ORDER:

( ) The motion of Applellant, Emma Lee Paul, for (x) Stay of the issuance of mandate pending petition for writ of certiorari is DENIED.

s/ ?
United States Circuit Judge

APPENDIX B ---OPINIONS OF THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF FLORIDA

United States Disrtrict Court
Southern District of Florida

95-2414 CIV-MORENO Magistrate Judge Bandstra

EMMA LEE PAUL, of Miami, Florida,

Plaintiff,

v.

Case No:

Filed by '95 Nov-1

WILLIAM MORROW AND COMPANY, INC. of New York, New York, CBS, INC. of New York, New York, and SIMON & SCHUSTER, INC. of New York, New York.

Defendants

COMPLAINT for INFRINGMENT Of COPYRIGHT

---

1. This action arises under the Copyright Laws of the United States, more particularly Title 17 of the U.S.C.

2. This Court has exclusive jurisdiction under 28 U.S.C.1338 (a).

3. Venue is proper in this Court under 28 U.S.C. 1400(a), each of the Defendants having been operating, conducting, engaging in, or carrying on a business or business venture in the State of Florida.

Appendix B

4. Plaintiff Emma Lee Paul is a writer.

5. Defendant William Morrow and Company, Inc. is a book publisher.

6. Defendant CBS, Inc. is engaged in the business of television and radio broadcasting.

7. Defendant Simon & Schuster, Inc. is a book publisher also engaged in the production of audio cassettes.

8. Prior to April 1, 1976, Plaintiff, who then was and ever since has been a citizen of the United States, wrote a book entitled The Bold Truth. the book is an autobiographical description of events and relations between blacks and whites as she lived in various parts of the United States.

9. Plaintiff's The Bold Truth is a wholly original work of the Plaintiff and is copyrightable subject matter under the copyright Laws of the United States.

10. On April 1, 1976 Plaintiff complied in all respects with the Copyright Act and all other laws governing copyright and secured the exclusive rights and privileges in and to the copyright of said book and received from the Register of Copyrights a Certificate of Registration dated and identified as follows: April 1, 1976, Registration Number A721165. A copy of the Certificate is attached hereto as Exhibit A.

11. Some time in 1993 Defendant William Morrow And Company, Inc. published a book entitled Alex Haley's Queen, with the authors being named as Alex Haley and David Stevens. A copy of the first few pages of the book is attached hereto as Exhibit B.

Appendix B

12. On information and belief the authors of Alex Haley s Queen had access to Plaintiff's copyrighted book and incorporated a substantial portion of Plaintiff's copyrighted book into their book without the Plaintiffs permission or authorization. The publication of Alex Haley's Queen, is a violation of Plaintiff's exclusive rights in her copyrighted work and hence an infringment of her copyright.

13. Some time in 1993 after the publication of Alex Haley's Queen by Defendant William and Company, Inc., Defendant CBS, Inc. broadcast a nationally televised version of Alex Haley's Queen, without the consent or authorization of the Plaintiff. The broadcast incorporated a substantial portion of Plaintiff's copyrighted book, the broadcast constituted a violation of Plaintiff's exclusive rights in her copyrighted work and hence an infringment of her copyright.

14. Some time in 1993 Defendant Simon & Schuster, Inc. published an audio cassette version of Alex Haley's Queen. The cassette incorporated a substantial portion of Plaintiff's copyrighted book. The publication of the cassette constituted a violation of Plaintiff's exclusive rights in her copyrighted work and hence an infringement of her copyright.

WHEREFOR THE PLAINTIFF DEMANDS:

1. That Defendants be required to pay unto Plaintiff such damages in an amount no less that 5, 000,000, as Plaintiff has sustained in consequence of Defendants infringement of her copyright and also any profits of the Defendants.

2. That Defendants pay unto Plaintiff the full costs of this action and reasonable attorney fees.

Appendix B

3. Such further relief as this Court deems just and proper.

s/ Emma Lee Paul

State of Florida
County of Broward

Before me personally appeared Emma Lee Paul, who is personally known to me, who made oath that all the statements made in the above Complaint are true to the best of her knowledge and belief.

R BERTA SHERMAN
My commission # CC 412612
Expires: November 25, 1998
Bonded thru Notary Public
Underwriters

s/Roberta Sherman
Roberta Sherman
Notary Public, State of Florida
United States of America
Commission expires
My Commission Expires:

11/25/98
Seal:

United States District Court
Southern District of Florida
Case No. 95-2414-CIV-MORENO

EMMA LEE PAUL,

Plaintiff

vs.

WILLIAM MORROW AND COMANY, INC., of New York, CBS, INC. of New York, and SIMON & SCHUSTER, Inc. of New York,

Defendants

Appendix B

(stamped Filed by SC D.C. Feb 09 1998 Carlos Junenke clerk U.S. Dist ct. S.D. of Fla. Miami)

ORDER DENYING MOTION FOR RETURN OF PROPERTY AND MOTION TO RE OPEN CASE

This Cause came before the Court upon Plaintiff's motion for Return of Property (docket no. 64), filed March 24, 1997: and Plaintiff's motion to Reopen or Reconsider Case (docket no. 61), filed on March 10, 1997

THE COURT has considered the motion, responses and the pertinent portions of the record, and being otherwise fully advised in the premises, it is

ADJUDGED that Plaintiff's motion are DENIED.

DONE AND ORDERED in chambers of Miami, Florida, This 9th day of February, 1998

s/ Federico A. Moreno
UNITED STATES DISTRICT JUDGE

copies provided:
Emma Lee Paul, pro se
1540 N. W. 203 St.
Sanford L. Bohrer, Esq.
Noami B. Waltman, Esq.
C.B.S. Inc.
51 West 52nd St.
36th Floor
New York, NY 10019

United States District Court
Southern District Of Florida

Case No. 95-2414 Civ-Moreno
Magistrate Judge Bandstra

Appendix B

Emma Lee Paul, Of Miami, Florida

Plaintiff

vs.

William Morrow And Company, Inc.
of New York, New York,
CBS INC. of New York, New York,
and Simon & Schuster, INC. of
New York, New York,

Defendants

Defendants' notice of filing declaration of David Stevens

Defendants hereby file the attached declaration of David Stevens in support of Defendants' motion for summary judgment.

HOLLAND & KNIGHT
Attorneys for Defendants
701 Brickell Avenue
P.O. Box 015441
Miami, Florida 33101
Telephone: (305) 374-8500

BY: s/ Sandford L. Bohrer
Sandford L. Bohrer (FBN 160643)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of this notice and the attached declaration were mailed to Emma Lee Paul, 1540 N.W.

Appendix B

203rd Street, Miami, Fl. 33619 on this 27th day of December, 1996.

*****Note: The Transcript in quote will be idenified by the person speaking, giving each page number and line, each conversation will be brought together some out of page sequence only to clarify judicial discretion in question.*****

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

EMMA LEE PAUL, of Miami, Florida,

Case No: 95-2414-CIV-FAM

Plaintiff,

-vs-

WILLIAM MORROW & COMPANY INC., of New York, New York; CBS, INC., of New York, New York, and SIMON & SCHUSTER, INC., of New York, New York,

Defendants.

----------x

TRANSCRIPT OF PROCEEDINGS BEFORE
THE HONORABLE FEDERICO A. MORENO
STATUS CONFERENCE

Appendix B

APPEARANCES:

For the Plaintiff: EMMA LEE PAUL
In Pro Se.

For the Defendants: SANFORD L. BOHRER, ESQ.

Court Reporter: ANTON B. SCHWARTZ
Official Court Reporter

U.S. DISTRICT COURT, SOUTHERN DISTRICT OF FLORIDA

Pg 53 lines 24-25 **Court:** is Ms Paul's book, The Bold Truth, an Autobiography- Pg 54 line 1- **Mr. Bohrer**: Yes

pg 53 lines 3 thru 14 then lines 21-22-23 **Court:** If a book is fiction and others see various individuals in it but obviously with different names-- **Mr. Bohrer:** you would have--that is a different claim. **Court:**There Is a book written by someone, then that would fit the description **Mr. Bohrer:** Sure. The expression can be of ideals of a manner of expression of facts. That's why you can protect certain compilations, even though they are just compilations of facts that any of us could gather. It is the manner of expression that is the critical issue. **Mr. Bohrer:** Not simply for recitation of facts, but of certain manners of expressing facts were the same, then you would have it.

pg 52, line 6-13 **Mr. Bohrer:** Is kind of a stock thing. There is nothing unique about the expression. If, however, you have a character give a twenty line speech about his or her belief in God and then you see in another book very similar language, that is where you have a claim that is a manner of expression, not simply the ideal of it, and that is the issue, but I think that we are not going to resolve that here today. In other words Ms. Paul--What I am saying is that our position is going to be,

Appendix B

pg 8 line 6 thru 11 **Court:** Completed. In 1973, you had the rough draft, three quarters of it. Okay. Now, Mr. Haley, you say, when he wrote Roots and when he wrote Queen, he took your ideals, your words that you had on paper. Is that what your position is" Ms Paul: Yes, sir.

pg 11 lines 7-thru 13 **Mr. Bohrer:** Your honor, if I might, Ms Paul sued over Roots twice in New York in Federal and State Court. She lost. the last time, the opinion was a pretty rough opinion of her, which if we get to that point we will be presenting to the court, but Roots is not a part of this lawsuit. It may be for background purposes, but she's not suing in this lawsuit over Roots.

pg 11 line 19 thru 25 **Court:** Then I should not have asked the questions about Roots. That is over and done with. I can't change that . Ms. Paul: I know, but it will tie in with some of the things that are going to come out. **Court:** but what I have to do is narrow. I don't want to broaden.

pg 29 line 5 thru 10, **Court: but** I have to figure out--I want to narrow down--I will be honest with you. I want to narrow down what I have to read. If I have to read everthing, I will read everything, but I want to be able to see whether I can narrow it down if it's possible.

pg 12 lines 15, 16 & 22, 23 **Court: Mr**. Bohrer, what happened, based upon your opinions? **Mr. Bohrer:** Both of them were summary judgments, your honor.

pg 13 line 1,8 & 15, 16 **Court:** now Ms. Paul, what Mr. Bohrer is saying is that a judge looked at the evidence as presented and granted what we refer to as a summary judgment. **Ms. Paul:** May I ask a question? **Court:** Not necessarily about that,

Appendix B

pg 15 line7 thru 9 & 11, 14, 15, 16 **Court:** Is there anything you don't understand about what I have said? **Ms Paul:** Yes. **Court:** I have to interrupt you. There is no coming back. Once we have done something in the past, you just can't go back to it because--it provides a background.

pg 16 line 3,4 **Ms Paul:** I can talk now? **Court:** You can talk now.

pg 25 line 13 thru 19 **Mr. Bohrer:** We are forced, of course in a motion for summary judgment, to address some of these things, but the fact is you have to prove either actual listing of passages, which she doesn't even assert, or you have to prove substantial similarity in the sense that you have to prove that the author of these works, Mr. Stevens had access to Ms. Paul's manuscript.

pg 23, line 20, thru 25 top page of 24 lines 1 thru 7- **Mr. Bohrer:** Alex Haley didn't write a word in any of these works, although I am sure people thought he did. David Stevens wrote all of them. The published book by Morrow was not completed until after Haley's death. **Court:** You are going to file a motion for summary judgment or a judgment on the pleadings or what type of motion are you going to file? **Mr. Bohrer:** we have basically prepared, waiting for the outcome of this, a motion for summary judgment, Your Honor. **Court:** what would you include in that motion?

pg 25 line 25 pg 26 lines 1 thur 25 **Mr. Bohrer:** The author, Mr. Stevens will be filing a declaration that says that although he talked to Mr. Haley, Mr. Haley didn't provide a single word for the book. Of course, Mr. Haley never mentioned The Bold Truth. Ms. Paul, among the filings that she provided for you, actually filed sworn interrogatory answers from Mr. Haley, obviously before he died, which we couldn't provide now because of his death., and those interrogatory answers which she provided to the Court and

filed here, indicate that Mr. Haley swore that he never heard of The Bold Truth or saw it. The author will tell you that he even made up scenes. Your Honor, this book--it is a thick book, but is has it it dialogue, people talking in the nineteeth century to each other. This didn't come out of anywhere except Mr. Stevens mind. He has Andrew Jackson talking to people in Mr. Haley's family. This is all made up. There are not any diaries that he took it from the Andrew Jackson diaries. All these conversations and virtually all the scenes are made up. It is a fictionalized work. The book, the mini-series and the audio cassette are all fictionalized work, and we believe that Ms. Paul, although she believes she has been taken by this, is just as wrong here as she was (pg 27 line 1) in the two suits in New York.

pg 27 lines 4 thru 22 **Court:** I don't know how else to do it. What I was getting at, I wanted to understand what the disputes were and whether I would have to read all of this in order to decide. The only copyright cases that I have tried are few, and liability has been admitted and we have only discussed damages. It has been easy in that sense. **Mr. Bohrer:** I think, Your honor, what we would be doing then is we would file a motion and then-- **Court:** Let her respond. **Mr. Bohrer:** she would have to respond. **Court:** Are you planning on attaching excerts, or I would have to read the whole thing because the claim--let me find out if the claim is just lifting of passages or substantial similarities. what do you wish to say, Ms paul, regarding what Mr. Bohrer has said? **Ms Paul:** The claim is Queen was Emma Lee. Queen did everthing I ever did in my life.

pg 24 line 13 thur 18: **Mr. Bohrer:** you know, in taking a look at the copyright, we are trying to look at different things. We look at the Plot, the Theme, the dialogue, the mood, the pace, the setting, the characterization and the sequence of events. Even a simple glance at her book, in comparing it to these three works, shows you that they are unrelated.

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pg 54 lines 6 thru 9 **Mr. Bohrer:** The author saying it doesn't have it isnt good enough. You have to look at the books and see whether the author was correct.

pg 30 line 11 thru 17 **Mr. Bohrer:** One thing we tried before her attorney, the gentlemen who filed the complaint, withdrew, we had tentatively agreed, but he withdrew before we signed off on it--that he was going to provide to me with the allegedly infringing portions of the works so that he could say starting with Queen--he would say "Okay. Page 16 of Queen"---

pg 31 line 3 thru 16 22 **Mr. Bohrer:** I said to him, "If you show me the passages in each of these"--because I have a printed version. I printed up a transcript of both the audio tape and the mini-series so we could work off of those. **Court:** How long are those? **Mr. Bohrer:** Pretty long, but what I wanted to have someone do is basically--we would have to do this--by the way, she didn'nt request a jury trial. So, if we don't do it now, we have to do it later, sort of like that mechanics comercial on television, "You can pay me now or later." I think that is what I was hoping he would do, but we never finished that agreement, is he would say, "okay". I am starting on page 70 of Queen, and six lines down there is those two sentences come right our of page 31 of The Bold Truth or they are almost the same, "Which that is a basis for a copyright infringment claim. **Court:** How are you going to file your motion for summary judgment?

pg 31 line 23 24, 25, top of pg 32 1-2 **Mr. Bohrer:** The analysis that I have done goes this way. There is no--I am really confident--there is not actual lifting of language that you could say here's a sequence of fifthteen words that appears in both books. So, I don't have a problem with that.

pg 32 lines 3 thru 14 **Mr. Bohrer:** We then went to the next test you have, which is you have to show both access by the author

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and sustantial similarity. On access, I filed a declaration from the author. That deals with that. Unfortunately for Ms. Paul, he is not a party and he doesn't live here. The latest I heard is he was in England. **Court:** we are talking about Stevens? **Mr. Bohrer:** Yes. So, that is a problem, for her a problem. Then I also have those interrogatory answers that go to disprove access. On substantial similarity, what I took was the basic test that Courts have looked at, which is, you start looking at the elements I mentioned before, the plot, theme, dialogue, and what have you and I go through an analysis. **Court:** The only way I could decide that is reading the whole thing.

pg 35 line 9 thur 12 **Court:** After you file three lifting of passages pleadings, separate ones, then you are gong to file three substantial similarities pleadings, which is probably what your claim is.

pg 46 line 1 thru 6 **Court:** What I am going to do, Ms. Paul, after you do the lifting of passages, documents for the three publications then you are going to have to do three more that have to do with substantial similarities. There, I am not going to force you to do identification by page or paragraph,

pg 42 line 14 thru 25 pg 43 line 1 thru 25 pg 44 line 1 **Court:** I don't want to get there yet. you are going to file The Bold Truth, and then once you receive that from Mr. Bohrer, you are going to list, by page--I am going to have a set form set out. In my order, I am going to have a form set out that will say lifting of passages, and I will have one column or one paragraph--I will figure out how I will do it--that will say book, page, blank, with fill in the blank, and if it is too long you can put dot-dot-dot at the end of the quote, with a page number, and then you are going have to do it for the Tv series versus your book, audio cassette versus your book, book Queen versus The Bold Truth, and you are going to have to fill out it out, and then you are going have to make

photocopies because I will only give you like one page indicating how you should do it, and then what you do is, you photocopy as many pages as you need and you keep doing that format. all right? **Ms. Paul:** Right. **Court:** Am I making myself clear? **Ms Paul:** yes, sir. **Court:** then after you do that with lifting of passages, you are going to have to do the same thing with substantial similarities. In other words, there you don't have to have quotes. you are going to have to have--you should made references to chapter and page, if you can. For example, you told me, there is a description of you in the introduction-- **Ms. Paul:** Right. **Court:** or in the dedication-- **Ms Paul:** it is. **Court:**--identifying you, as you said. you said a heavy set black lady. **Ms Paul:** No. **Court:** That was Roots. **Ms. Paul:** That was Roots. **Court:** Whatever.

pg 44 line 8 thru 25 **Mr. Borer:** Your Honor, with regard to substantial similarity, the Courts have asked the lower courts to look at things like the characteristics like I mentioned before, whether it is plot or mood or characterization. **Court:** Should I do it by chapter or in general? How detailed should I ask her to do it? **Mr. Bohrer:** Because she doesn't have the oportunity to do the legal research, I might, if I were writing in order, I would put in there that these are the--since it is not exact, these are the sorts of things that you look to to see if there is substantial similarity. Where the words are not exactly the same, you start looking at whether the theme is the same or whether the characters are the same because-- **Court:** Your suggestion--it is a good one, I think, is put it in different categories. For example maybe I should do it in interrogatory form. Characters that are substantially similar.

pg 45 lines 1 thur 18 **Mr. Bohrer:** The plot and things like that. **Court:** Should I do it in categories like that or should it be in one general portion? **Mr. Bohrer:** The cases--the courts take-- most of the time they have a plaintiff who is able to, through a lawyer, articulate what the claim is in this regard. I have not

thought about it in terms of how I would ask her, but if we are not talking about word for word, from one word to the other-- **Court:** How are they similar? **Mr. Bohrer:** I guess I would leave the plaintiff free to say--to use as many of those characteristics as they want, so if they think what predominates are two or three of those characteristics, because the plot, the theme, and characters are so alike-- **Court:** my concern is that it may be so broad and general, but your position would be--and then the plaintiff has not proven her case.

pg 38 line 25 pg 39 lines 1 thru 11 **Mr. Bohrer:** When you tell her in writing, we need to make it clear by lifting it right out, we mean that to say there is sequence of words that are exact in both because substantial similarity again I would ask-- **Court:** What I am going to ask her to do is, she takes the paragraph from the one book, and if it is in it she takes the paragraph from her book and she writes it out. That way I can read it. You think it is going to be the whole book? She said half of the pages. It is probably a lot less. **Mr. Bohrer:** Based on what I have seen, I think it comes out less.

pg 40 line 1 thru 14 **Court:** Now, Mr. Bohrer, you are tellig me that you have prepared a transcript of the TV series and of the audio cassette? **Mr. Bohrer:** Right. I think I provided them to Mr. Stalen, but it is just a matter-- **Court:** Do you have an extra copy? **Mr. Bohrer:** It is just a matter of photocopying. **Court:** We can't get around it, but I want you to file--I want the defendant, since you have it already, to file a transcript of the TV series, of the audio cassette and the book itself. It is going to have to be filed.

pg 40 line 20 thru 25 **Mr. Bohrer:** I will file it, Your honor. **Court:** It has to be filed. I has to be part of the record. When can you do that? **Mr. Bohrer:** It would just be a matter of a couple of days to make the photocopy.

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pg 46 line 1 thru 4 **Court:** What I am going to do, Ms. Paul, after you do the lifting of passages, documents for the three

publications, then you are going have to do three more that have to do with substantial similarities.

pg 46 line 22 thru 25 **Court:** After you do that, then I am going to ask the defendant, if he wants to, to file what we refer to as a motion for summary judgment, which is what they did in New York.

pg 47 line 17 thur 25 **Court:** The reason I am telling you all of this is so that you understand where he is coming from. He is going to argue to me-- Ms. Paul: Right. **Court:** --you cannot go to a jury or even you cannot decide this case-- **Ms. Paul:** Right. Court: --based on who is telling the truth, judge, because she does not made a case, which means you

pg 48 lines 1 thru 1 thur 3 **Court:** have to be very careful about the lifting of passages section, and if you don't have that, and your opponent is saying that you don't have that--

pg 48 line 11 & 12 **Court:** if you don't respond to what he says with something, then he is going to win.

pg 48 line 20 thru 22 **Court:** the substantial similarities, it seems like off the top of your head you can come up with, but the lifting of passages, if there are any, is going to be a laborious task.

pg 49 line 11 thru 18 **Court:** There are two ways of proving copyright infringment. One is direct. "If you look at my book -- wait a second. He stole it right off that and I can see it" The other one, which is probably what you are saying--I am not sure--but is probably what you are saying is that they are substantially similar, that they are talking about you, that you were that woman who

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grew up in that era, that the author just changed a couple of things, but it is substantially similar. 'It is the story of my life."

pg 50 line 7 thru 9 & 14 & 24, 25 **Court:** Not one hundred percent. You are saying how close does the quote have to be?

Ms. Paul: That's what I am trying to find out. **Ms. Paul:** I have to understand that. **Court:** In other words, the more similar it is, the better off you are

pg 54 line 1 thru 19 **Court:** You have to work from that book and from the documents, the books, the transcripts that Mr. Bohrer is going to give you.

pg 22 lin 18 **Court:** We are going to make it three counts.

pg 36 lines 4 thru 10 **Court:** Would you agree, Ms. Paul, that the TV series and the audio cassette of the book are pretty much the same or not. Ms. Paul: With the television, I will tell you why, You can see what she's doing. You can see what I', saying.

pg 4 line 9-10 **Court:** Since you are representing yourself--that's what we call latin pro se--you file lot of things. I read them with interest,

pg 16 line 11thru 15 **Court:** The mini-series on TV. I never saw it. I saw Roots, but I never saw Queen. **Ms. Paul:** I have 61- I mailed you certified forty-five minutes of it. **Court:** I have not seen that.

pg 17, line 5 thru 14 **Court:** The mini-series, which you have on videotape? **Ms. Paul:** Video, forty-five minutes of my life. **Court:** Forty-five minutes. **Ms. Paul:** Number and pages. **Court:** I have not seen that, but I will confess I have not read everything that you have filed. I will confess to you that I just looked at it. I

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don't read everyline of it. I will if I have to, but I have not read everyline.

pg 42 line 9 thru 13 **Court:** There is no point in asking if you wish to settle. how much do you want? I should not ask that in case it is not going to be a jury trial. **Mr. Bohrer:** It might not be, either. They have not demanded a jury trial.

pg 58line 1 thru 1-2 **Ms. Paul:** Behind doors. I asked for a Grand Jury trial. I was never given that. I was never given that.

pg 56 line 11 thru 13 **Court:** We have to do so many things before then, and I am starting a real long trial next week that is going to take a few months.

pg 14 line 9 thru 15 **Court:** If there is a dispute and you are entitled to a jury trial, then a jury makes the decision. I don't make decisions of whether someone is telling the truth, assuming that you are entitled to a jury trial, or I make a decision after all the facts. It all depends. But before it gets to either a jury or a Judge to decide who is telling the truth, many cases are thrown out,

pg 15 line 5 thru **Court:** If it is a question of whether there is sufficient evidence, then I can. That's what I am getting at.

pg 22 lines 17 thru 25 pg 23 lines 1 thru 5 **Mr. Bohrer:** It is actually one count.**Court:** We are going to make it three counts. **Mr. Bohrer:** It doesn't matter to us. We answered the complaint, each of the defendants answered. We understood what the nature of the claim is. I have looked at all of the materials and I have met with Ms. Paul, and I have spoken to her separately from meeting with her, and I have--because this is what I am supposed to be trained to do--I have reviewed the law, and (top of 23) the defendants position is, there is nothing remotely like like a copyright infringement here. **Court:** You are saying that there is

nothing in there, there are generalitites that could fit many individuals in Ms Paul's category.

pg 59 line 3 thru 21 **Court:** By November 15th, but I will tell you exactly how you should do it. I will give you a set form. As far as a jury trial, I have not decided whether you are entitled to a jury trial or not. I have not said that you are not. Your opponent, Mr. Bohrer, said you are not entitled to a jury trial. I am not sure he is right. I don't know whether you are or not, whether you asked for one. So, we have not decided that yet. We just don't go to trial without the Judge understanding the issues. Before we go to trial, I have to read your book. I have to read Queen and I have to read the transcripts and look at the miniseries. Until I do that, you cannot go to trial. I can't do that until probably around January, if not a little later.

pg 57 line 3 thru 9 **Court:** Any questions that you have, Ms. Paul? Anything else that you want to say? **Ms Paul:** Yes. If he doesn't have the time and you don't have the time, but with what I have— **Court:** What do you mean I don't have the time? **Ms. Paul:** I thought you said you had some other—**Court:** No. I mean I do—I misspoke.

pg 4 line 21 thru 24 **Court:** I certainly--if it is going to be me or if it is going to be before a jury--cannot consider all of these things. So, it doesn't really serve any purpose to file anymore.

pg 58 lilne 19 thru 25 pg 59 line 1 **Court:** Now, I don't want you to filing anything until you receive the copy of my order telling you what to file. **Ms Paul:** nothing else. **Court:** Don't file excerpts. Don't file various motions for extensions, motion for exhibits to be filed with the newspaper articles. Don't do that because I will lay out in writing what I have said here what you should do. That's what you should file--

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pg 4 lines 14 thru 20 **Court:** I assume, of course, they are credible, and most articles in the newspaper have a certain degree of truth to it. Mr. Bohrer has represented a lot of newspapers, so he probably won't object to that, but I have to try the case based on the complaint that you filed or however it is going to be changed or amended, and whatever the response or the answer is by the defendant and whatever evidence.

pg 23 line thru 25 pg 19 lines 1 thru 6 **Court:** I misunderstood. I have to understand exactly what is going on from you so I can make a ruling, because the papers are not as clear as I would want them to be. **Ms Paul:** But I have re-did them. They have been typed. The reason why I did that– **Court:** It doesn't matter. I am not faulting you for that. **Ms. Paul:** I have them typed.

pg 37 lines 7 thru 16 **Court:** I want you to do something in the future. I am not going to go back. The way things have been filed have been pretty – **Ms Paul:** Mixed. **Court:** It is hard for me to go through all of that. **Ms. Paul:** So, you want me to sit at a table and show you something now? **Court:** No, not now. In the future. **Ms. Paul:** I can do it now.

pg 20 lines 23 thru 25 **Mr. Bohrer:** Now, what Ms. Paul is saying is that each of these works in different ways, some of them in common ways, infringes on her copyright.

pg 21 lines 1 thru 25 pg 22 lines 1-2 **Mr. Bohrer:** The materials she sent to you, in addition to the things she mentioned like newspaper articles about her and things like that, some of those papers she sent to you, she believes show how there was an infringement, is what she was saying to you. The one last thing, just to make sure you understand, what she was saying is that things she had in her introductory portions of her book were, she claims, were included in one of the three works. That was the

confusion. I think that is what her claim is about. **Court:** Let's do it in order. Would you agree that that is what your complaint is about? **Ms. Paul:** I am following you, but I am lost just a little bit. **Court:** He says your rights that you have from your writing in The Bold Truth have been violated by three things: The TV series, The audio cassettes and the book, Queen. **Ms Paul:** Yes. I agree with that. **Court:** That's what he is saying. In other words, that your words from The Bold Truth are in, one way or the other, in the Tv series, in the audio cassette and in the book. That's what he is saying that you said. Do you agree that is what your complaint is, that this is what this Civil complaint is about? **Ms. Paul:** Yes, I am.

pg 5, lines 3 thru 9 **Court:** So, I am going to ask you here on the record what the complaint is. What is it that you are complaining about? What is the charge that you are making, the civil charge? **Ms Paul:** The civil charge is that Alex Haley used my life and I re-lived it, it was very painful, in many points because it is a true life story.

DECLARATION OF DAVID STEVENS

I, David Stevens, declare as follows:

1. I am a professional writer, director and producer. Among others, I co-wrote the screenplay for the feature film Breaker Morant, and I directed, and my company produced, a miniseries for the Public Broadcasting System ("PBS") entitled A Town Like Alice. I also am writing and will co-excutive produced the television film The Court Martial of Lt. William Calley, and wrote the following television miniseries: Always Afternoon, Millionaire's Row and The Thorn Birds II: the Missing Years. I submit this declaration in support of the Motions for Summary Judgment filed by Defendants CBS, Inc, Simon & Schuster, Inc.

and William Morrow and Company, Inc. ("Defendants") in the action entitled Paul v. CBS, Inc et al. bearing case no. 95-2414-Civ-Moreno and pending in the United States District Court for the Southern District of Florida. Except where stated on information and belief, I assert the facts contained herein from my personal knowledge and could and would testify thereto if called upon to do so. Where I state facts herein on information and belief, I beleive those facts to be true and could and would testify if called upon to do so.

2. Until I received notification of the pendency of this lawsuit (sometime around November 23, 1995), I had never heard of or met a woman named Emma Lee Paul. I still have never met or spoked to Ms. Paul. Prior to learning of Ms. Paul's lawsuit, I had never heard of or seen Ms. Paul's unpublished manuscript entitled *The Bold Truth*. To this day, I have never seen or read The Bold Truth and have no idea even what the manuscript is about.

3. Both the book Alex Haleys Queen (the"book") and the six hour miniseries of the same title (the "Miniseries") (collectively, the "Works") are fictionalized works based on the genealogy of Alex Haley's Paternal family. The works focus on the life and experiences of a woman named Queen--the daughter of a young slave master and one of his slaves--who was Alex Haley's paternal grandmother.

4. I wrote every word of both the Book and the screenplay of the miniseries. I began working on the miniseries teleplay in 1990 and completed it in mid-1992. I wrote the Book after the death of Alex Haley and after I had completed the Miniseries. On a few occasions, I wrote scenes in the Miniseries in consultation with Alex Haley. On these occasions, I would suggest scenes to Alex Haley and he would give his opinion concerning my suggestions. Alex Haley never suggested Ideas for scenes to me because he refused to specualte concerning historical "fact" which could not

be independently verified. The words in the Miniseries (and the Book, for that matter), that is the expression of my ideas (a few of which were approved by Alex Haley), were chosen and written my me alone, without help from Mr. Haley. In other words, even the scenes which I wrote with Alex Haley's help emanated from me; I wrote the scenes in Mr. Haley's presence, and he commented on whether they were authentic for the time period and believable.

5. In writing the Works, I relied in part upon histroical information provided to me by Alex Haley (e.g. genealogical details embodied in voluminous notes) but I created the stories and even some of the characters for the works myself. Specifically, Alex Haley provided me with written material concerning the life of one of Alex Haley's great-great grandfathers from his childhood in Ireland through his immigration to the United States and the birth of Alex Haley's great grandfather. In addition, Alex Haley provided me with written material containing a description of life in 19th century Philadelphia. I also relied on the following published resoures in writing the Works: People's History by Page Smith, Reconstruction by Eric Foner, Fathers and Children by Michael Paul Rogin, The Border Captain by Marquis James and the diaries of Mary Chestnut. Finally, I met some descendants of the white family to which Queen was enslaved, The Jacksons, when I traveled with Alex Haley to Florence, Alabama.

6. For puposes of the screenplay for the Miniseries. I drew very little upon the written materials given to me by Alex Haley, except for the use of various names of characters (all of whom were actual ancestors of Mr. Haley's). Because Alex Haley was unable to unearth many factual details concerning his paternal ancestry (other than the names of his ancestors), I was called upon to create a dramatic, realistic story for the Miniseries without reference to pre-existing materials. I therefore, created the story for the Miniseries myself, sometimes with Alex Haleys approval of specific scenes I wrote but much more often without consulting

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Mr. Haley. For purposes of the Book, I utilized only a small portion of the written materials given to me by Alex Haley, for example, to describe the life of Haley's great-great grandfather in Ireland. As with the miniseries, I created the story for the book--its events, plot, dialogue, and theme--myself, sometimes with Alex Haley's approval of specific scenes, which approval was given while I previously wrote the screenplay for the Miniseries.

7. In my numerous conversations with Alex Haley concerning the screenplay for the Miniseries, Mr. Haley never mentioned Ms.Paul or The Bold Truth to me. Futhermore, Mr. Haley contributed nothing but the most general factual detail to either of the Works and never suggested storylines, events, plots, sequences of events or dialogue for the works.

I declare under penatly of perjury pursuant to the laws of the United States of America that the foregoing is true and correct. Executed this 1 day of November, 1996 at _____Massachusetts.

s/ David Stevens
David Stevens

Commonwealth of Massachusetts
County; of Essex, ss:

On this 1st day of November, 1996 before me personally appeared David Stevens, and acknowledged the foregoing to be his free act and deed.

My commission expires: September 23, 1999

s/Peter W. Johnston
Peter W. Johnston
Notary Public

APPENDIX C--- SUPPLEMENTAL DECISION AND ORDER OF THE UNITED STATES COURT OF APPEALS OF THE SOUTHERN DISTRICT OF FLORIDA

IN THE UNTIED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

NO. 97-4511

EMMA LEE PAUL,

Plaintiff/Appellant

vs.

WILLIAM MORROW AND COMPANY, INC.,
CBS INC. AND SIMON & SCHUSTER, INC.

Defendants/Appellees.

PETITION FOR REHEARING FROM THE
UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

PETITION FOR REHEARING FOR PLAINTIFF/APPELLANT

EMMA LEE PAUL

EMMA LEE PAUL
1540 N.W. 203rd Street
Miami, Florida 33169

Pro Se

Appendix C

*****Note:4 pages not typed here but included in the petition to the appeals court are Certificate of Interested Persons, oral argument, certificate of type size and style, table of contents*****

TABLE OF AUTHORITIES

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Federal Rule of Civil Procedure 60 (b).....2,4,5 -

STATEMENT OF JURISDICTION

This court has jurisdiction pursuant to 28 U.S.C. s1291.

STATEMENT OF ISSUE

Whether this court appropriately affirmed the summary judgment in favor of the defendants in this action for copyright infringement, where the Plaintiff/Appellant can show that the defendants misrepresented the facts to the court, and that crucial evidence was either omitted or overlooked, and that the Plaintiff/Appellant failed to submit vital evidence due to mistake or inadvertence.

Appendix C

STATEMENT OF THE CASE

A. Nature of the case and course of proceedings

This is a Petition for Rehearing on the Court's affirmation of summary judgment suit that was filed by the Plaintiff/Appellant Ms Emma Lee Paul on November 1, 1995. Ms. Paul has been representing herself since the withdrawal of her attorney from the case. In her suit, Ms. Paul alleges copyright infringement of her manuscript entitled "The Bold Truth" by Willliam Morrow and Company, CBS Broadcast, and Simon & Schuster, in their publication of the book Alex Haley's Queen, the TV mini-series, and the audio versions of the book.

On December 27, 1996, the Defendants/Appellees filed a motion for summary judgment and it was granted on February 25, 1997.

B. Summary of Facts:

On April 1, 1796, the Plaintiff/Appellant obtained a certificate of registration for ther manuscript, The Bold truth, from the U.S. Copyright office. Upon seeing the broadcase of the mini-series Queen, Plaintiff/Appellant became aware that the storyline bore and uncanny resemblance to the contents of her book The Bold Truth. She purchased a copy of the book and compared the two and was convinced that the Defendants had used the contents of her manuscript without her consent. As a result, the Plaintiff/Appellant initiated this action against the Defendants.

C. Legal Analysis:

In its opinion filed June 22, 1998, this Court affirmed the summary Judgment decision of the lower court, on the grounds that the Plaintiff did not show indirect copy because the records

lacked the basis for an inference that the defendants had access to the Plaintiffs work. Plaintiff contends that she is entitled to a rehearing under Fed.R.App.P 40, which allows a Plaintiff to file for a rehearing if there are points of law or fact, that in her or her opinion, she has overlooked or misaprehended. She further seeks relief under Fed.R.Civ.P. 60 (b) which allows a party relief from a judgment if there is a showing of mistake, inadvertence, neglect fraud, misrepresentation or any other misconduct by the opposing party. It is Plaintiff's position that the facts were grossly misrepresented to the Court by the Defendants, and that her mistake or inadvertence also prevented vital facts from being considered. Plaintiff believes that a review of the records will substantiate her position that there are genuine issues of material facts which justifies and entry of summary judgment.

1. Misrepresentation of Material Facts by Defendants:
In their attempt to show a lack of access to Plaintiff's work, the defendants relied very heavily on Mr. Alex Haley's answers to the interrogatory that was submitted to the Court by the Plaintiff. Plaintiff had obtained the answers to the interrogatory in a prior lawsuit. In the answers Mr. Haley stated that he had never heard of the the book The Bold Truth, and neither had he heard of Ms. Emma Lee Paul prior to her filing the lawsuit. Defendants argued that because Mr. Haley had never heard of Ms. Paul or her book, The Bold Truth, that this clearly showed that the Defendants had no access to the Plaintiffs work. In fact, the defendants stated in their brief in light of Stevens' unequivcal denial of access and the interrogatory answers of the late Alex Haley filed by Ms. Paul herself, the absence of access is clear. (b.42) (emphasis added).

Despite the Defendants very strong statement to the Court, the defendants knew, or should have known that Mr. Haley lied in his answers to the interogatory. Mr. Haley, did in fact, know about Ms Paul and her book, The Bold Truth, many years before the institution of the current suit, and well before the book, Alex

Haleys Queen was written. The Defendants concealed this fact because they did not want to reveal to the court that there was a strong possibility that Mr. Haley did have access to the Plaintiff's work prior to the creation of the Defendants work. After all, such knowledge would undoubtedly set a shadow on Mr. Stevens' claim of independent work. Since Mr. Haley was the significant nexus between the Plaintiff and the Defendants, the Defendants wanted to sufficiently attenuate the connection.

Documents that showed that Mr. Haley had knowledge of both Ms. Paul and The Bold Truth are in the possession of both the Defendants and the Plaintiff. The Defendants intentionally suppressed these facts to deceive the Court into granting them a favorable decision. Although Plaintiff submitted these documents to the court, they were either ignored or overlooked due to Ms. Paul's mistake, inadvertence or misunderstanding of court procedures. The parties had in their position, a letter dated August 30, 1979, that was sent by Mr.Kenneth M. Henson, Jr., then attorney for Ms. Paul, to Mr. Haley informing him of Ms. Paul's intent to sue him for copyright infringement. In that letter Mr. Henson made clear reference to Ms. Paul's manuscript, The Bold Truth. In response to the letter, Mr. Haley sent a letter to Mr. Brandon Stoddard on september 4, 1979, which states: "The enclosure is just for you to glimpse for information befoe relaying it to ABC legal folk. A lady seems to feel that Roots the next generations incorporates 'ideals, thoughts and language that were borrowed from something she wrote. In 1984, subsequent to writing this letter, Mr. Haley completed the answers to the interrogatories wherein he stated that he had never before heard of Ms. Paul or the book The Bold Truth.

The second material misrepresentation came from the inconsistent statements regarding Mr. David Stevens. The Defendants stated that: David Stevens wrote the entire teleplay of the broadcast..." (B.3) However, in the "Afterword" of the book on

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page 669 of Alex Haley's Queen, Mr. Stevens wrote: "I have also been asked how much of the book was written by Alex and how much by me, and I find this impossible to quanity. I have a seven-hundred-page outline provided by Alex, boxes and boxes of his research are available to me, and some finished pages for the book..." (pg. 669) (emphasis added) if Mr. Haley did have access to The Bold Truth, then there is a very strong likelihood that it could have been passed on to Mr. Stevens in the boxes of notes, or be incorporated in the seven-hundred-page outline.The Defendants intentionally circumvented any allusion to the fact that the book was co-authored by Alex Haley, because they wanted to contain any information that could create an inference of access. Such an inference would most definitely weaken the Defendants assertion that Mr. Stevens' work was his own independent creation, or that Queen preceded his knowledge of The Bold Truth.

Defendants reliance on Mr. Steven's declaration that he alone was the sole author of Queen is misplaced because the Defendants knew , or should have known that he received assistance from or worked with Mr. Haley on the book. Thus, the declaration that Mr. Stevens was the sole author constitutes a blatant material misrepresentation. The law is clear that where material misrepresentations were relied upon by the court in making a decision, the party that is adversely affect is entitled to relief under Fed.R.Civ.P. 60(b).

11. Mistakes: inadvertence: Excusable Neglect:

Fed.R.Civ.P.60(b), states that on motion and upon such terms as are just, the court may relieve a party or party's legal representative from a final judgment, order, or proceeding for mistake, inadvertence, surprise or excusable neglect, newly discovered evidence, fraud, misrepresentation, or other misconduct of an adverse party. It is the Plaintiff's position that a crucial piece of evidence was omitted from consideration due to either mistake

or inadvertence.

On April 14, 1997 Plaintiff submitted into evidence, a piece of paper that she believed contained the handwritting of Alex Haley. On that paper, the writer acknowledged the book, The Bold Truth, questioned who the author was, and stated that the book was rejected because it contained too many errors. There were other handwritten notations on the paper. Plaintiff intended to use the note as evidence that Mr. Haley did reveiw her manuscript and that he was the person who made the notations. Plaintiff aquired the note from a box of documents that were sent to her by the Defendants in the prior suit. The box was labeled "Alex Haley's notes" She beleives that the Defendants inadvertently placed the note in the box and that it was not intended for her to see. Plaintiff compared the note to other handwritten notes of Mr. Haley and believes it to be his handwriting. Although Plaintiff did submit this note into evidence, it was somehow either overlooked or disregarded by the Court. Because all relevant evidence is admissible, the Plaintiff should have been afforded the opportunity to authenticate the note and present it as a substantial piece of evidence in her case. The question as to the authenticity of the note raises a material isue of fact that should preclude the affirmation of summary judgment.

111. Genuine Issues of Material Facts Existed That should Have Precluded an Entry of Summary judgment:

Summary Judgment is appropriate when "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits...show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. "Kelly v. United States, 924 f. 2d 355, 357 (1st Cir. 1991): see also Fed.R. Civ.P. 56 (c).

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In light of the facts outlined above, Plaintiff believes that she has presented genuine factual issues that preclude and entry of summary judgment in favor of the Defendants. The court must examine whether the Defendants had knowledge that Mr. Haley and Mr. Stevens lied in the documents that they presented to the Court, and whether the Defendants knew or should have known of the lies before submitting the information to the Court. The Court must also determine the weight to be given to the note that was submitted into evidence by the Plaintiff, and whether the note would have been substantial to the Plaintiff in establishing a strong likelihood of access to her work by the Defendants.

CONCLUSION

For these reasons, the Court should grant Plaintiff/Appellant's request for a rehearing, or vacate the summary judgment and reman the case to the District Court for futher proceedings.

Date: s/ 7/9/98

s/ Emma Lee Paul
1540 N. 203rd Street
Miami, Florida 33169
(305) 653-4221

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing document has been forwarded to the Defendants by and through their respective counsel(s) listed below on this 7 day of July, 1998

Sanford L. Bohrer
Judith Mercier
Holland & Knight LLP
701 Brickell Avenue, suite 3000

Appendix C

Miami, Florida 33131

Date: s/ 7/9/98

s/ Emma Lee Paul
1540 N.W. 203rd

Street

Miami, Florida 33169
(305) 653-4221
Pro Se

APPENDIX D---ORDER OF THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF FLORIDA

United States District Court
Southern District of Florida
Case No. 95-2414-Civ-Moreno

Emma Lee Paul,
Plaintiff,

Vs.

William Morrow And Company, Inc. Of New York, CBS, Inc. of New York, and Simon & Schuster, Inc. of New York.
Defendants.

ORDER GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

This cause came before the court upon defendants motion for Summary Judgment (docket no. 49), filed on December 27, 1997.

The Court has considered the motion, responses and the pertinent portions of the record, and is otherwise fully advised in the premises. The Court notes that Plaintiff, Emma Lee Paul, claims that Defendants infringed on her copyrighted work, The Bold Truth, when they published the book, the television miniseries, and the audio cassette tapes of Alex Haley's Queen.

To establish a successful copyright infringment claim, a plaintiff must show that the defendants copied protected elements of the plaintiffs work. A Plaintiff can prove direct evidence of one of two ways. First, a Plaintiff can direct evidence of copying, which is the actual lifting of passages, word for word, from Plaintiffs work to defendants work. See Beal v. Paramount pictures corp., 20 F.3d (11th Cir. 1994). Second, a Plaintiff can

establish her claim by proving that Defendants had access to her work and that the two works are sustantially similar. Mitek Holdings, Inc. v. ARCE Eng'g Co., 89 F.3d 1548 (11th Cir. 1996); see also shaw v. Lindheim, 919 F.2d 1353, 1356 (9th Cir. 1990).

In order to decide whether the two works are substantially similar in this case, the court compared individual features of The Bold Truth and Alex Haley's Queen to determine if there are specific similarities between the plot, theme, characters, dialogue, mood, setting, pace, and sequence of events. See Shaw, 919 F.2d at 1362-63; Beal, 20 F. 3d at 460-63. In order to assist the Court in this comparison, Plaintiff filed detailed charts setting forth the passages from her work and from the Defendants works that the Plaintiff alleges are substantially similar.

After a careful review of the voluminous submissions in this case, it is clear that the proof offered by the Plaintiff does not meet the standard required for a claim of copyright infringement. First, the Plaintiff has failed to show that the Defendants directly copied the Plaintiffs work. The Plaintiff's chart of substantial similarity lists numerous ordinary words and phrases common to the works of the plaintiff and Defendants. Yet nothing in the Plaintiffs pleadings shows what amounts to a direct copying of her work by the Defendant.

Second, Plaintiff has failed to demonstrate a substantial similarity of protectable expression between the defendants works and The Bold Truth. The works at issue recount the experiences of black Americans growing up in the American South, especially their relationships with white Americans. As such, The Bold Truth and the Defendants works use many of the same phrases, words, and colloquial expressions commonly used by Southern white and black Americans during the time periods represented. But the similarities between The Bold Truth and the defendants works ends with this general Southern back drop. The plot, themes,

sequence of events, and mood of the works are markedly different. Briefly, Alex haley's Queen is a dark, pessimistic account of the racism suffered by a light-complected black woman. It is an historical and metaphorical depiction of several generations of black American slaves, former slaves, and their descendants. The protangonists experience with white Americans is one of slavery, rape, murder violence, and mistreatment. The Bold Truth, on the other, is an anecdotal autobiography of the Plaintiff's life from the 1930's to the 1970's. An optimistic, uplifting story, it recounts the positive relationships the author, a dark-complected black woman, has had with the white Americans she has come into contact with during her life. In contrast to Alex Haley's Queen, it is not marked by conflict or tragedy. In short, the two works bear little resemblance, and there is no basis for finding that the two works are substantially similar.

Finally, the Plaintiff has failed to show that the Defendants had access to the Plaintiff's work. The author of the Defendants work, David Stevens, has provided a declaration attesting to the fact that he had no access to the Plaintiff or her work when he wrote Alex Haley's Queen. Moreover, Plaintiff herself provided the court with copies of interrogatory answers in which Alex Haley denied having such access. Plaintiff has offered no evidence refuting those statements or indicating that any of the other Defendants had access to her work prior to the initiation of this lawsuit. For this reason alone, Summary judgment in favor of the defendants would be appropriate. Evans v. Wallace Berrie & Co., 681 F. Supp. 813, 816 (S.D. Fla. 1988).

In short, the Plaintiff has failed to establish either that there was direct copying of her work by the Defendants, or that the Defendants had access to her work and there is substantial similarity between her work and the Defendants works. There fore, it is

ADJUDGED that Defendants Motion for Summary Judgment is

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Granted.

DONE AND ORDERED in Chambers at Miami, Florida, this 25th day of February, 1997.

s/ Federico A. Moreno
United States District Judge

Copies Provided:
Emma Lee Paul, pro se
1540 N.W. 203 St.
Miami, Fl 33169
Sanford L. Bohrer, Esq.
Naomi B. Waltman, Esq.
C.B.S. Inc.

APPENDIX E— CONSTITUTIONAL PROVISIONS, TREATIES, STATUES, ORDIANANCES, AND REGULATIONS WITH APPROPRITATE CITATION

An inference of coping may arise where there is proof of access to the material with a showing of Similarity. Golding v. R.K.O. Pictures, Inc.,35 Cal.2d 690,695 (1950)

Two establish copyright infringement, two elements must be proven: Ownership of a valid copyright, and copying of constituent elements of the work that are original. Fiest Publications, Inc., v. Rual Telephone Service Co., 499 U.S. 340 111 S.Ct. 1282,1296, 113 L.Ed.2d 358 (1991):Bellsouth advertising & Publishing Corp. v.Donelley Info. Publishing, Inc. 999 F.2d 1436,1440 (11th Cir.1993) (en banc).

To Prevail a copyright infringement action, a plaintiff has to show 1) ownership of a valid copyright and 2) that the defendant copied protected elements of the plaintiffs work. Mitek Holdings. Inc. v. Arce Engineering Co., Inc., 89 R.3d 1548, 1553 (11th Cir.1996)

Once it is established that there has been no direct copying, Plaintiff is first required to show that defendant had access to the plaintiff's work. Beal, Supra, 20 F.3d at 459. Mitek Holdings, Inc. v. Arce Engineering Co., 89 R. 3d 1548 (11th Cir. 1996)

Because the copyright act protects "original works of authorship" (17 U.S.C. 102 a) The "Sine qua non of copyright is originality" Fiest Publications, Supra, 499 U.S. at 345, 111 S.Ct at 1287

When called upon to adjudicate a copyright dispute a court must compare the works in question. Autoskill, Inc. v. National Educ. Support Sys., Inc.,994 F.2d 1476, 1490 (10th Cir.), cert. Denied -U.S.-, 114 S.Ct. 307, 126 L.Ed.2d 254 (1993). With that in mind, we have independently reviewed the book and the motion

picture involved in this lawsuit, and will begin by briefly summarizing them.

The Plaintiff is first required to show that the defendants had access to the plaintiffs work; second the plaintiff must show that the defendants work is substantially similar to the plaintiffs protected expression. Original Appalachian Artworks, Inc. v. Toy Loft, Inc., 684 F.2d 821, 829, & n. 11 (11th Cir. 1982)

Parties appearing pro se are allowed greater latitude with respect to reasonableness of their legal theories. Patterson v. Aiken, 111 F.R.D. 354,358 [N.D. Ga. 1986]

Issue presented in trial court...would be subject to review by this court. Number GAC Corp. v. Beach, 308 So.2d 550 [Fl.2d DLA 1975]

STATUES CITED:

Title 28 U.S.C. Appendix Rule of evidence: Rule 102- Purpose and Construction: These rules shall be construed to secure fairness in administration, elimination of unjustifiable expense and delay, and promotion of growth and developement of the law of evidence to the end that the truth may be ascertained and proceedings justify deemed. (pun. L. 93-595, 1, Jan.2, 1975, 88 stat 1929)

Title 28 U.S.C Appendix Rule of evidence: Rule 102 a, 2, d. Rulings on Evidence: a) Effect of erroneous ruling-Error may not predicated upon a ruling which admits or excludes evidence unless a substantial right of the party is affected, and (2) Offer of Proof- in case the ruling is one excluding evidence, the substance of the evidence was made known to the court by offer or was apparent from the context within questions were asked. d) plain Error: Nothing in this rule precludes taking notice of plain errors

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affecting substantial rights although they were not brought to the attention of the court. (Pub. L. 93-595, 1, Jan.2, 1975, 88 Stat 1930)

Subdivision: a) states the law as generally accepted today. Rulings on evidence cannot be assigned as error unless (1) a substantial right is affected., and (2) the nature of the error was called to the attention of the Judge, so as to alert him to the proper corrective measures. The objection and the offer of proof are these objectives.

Title 28 U.S.C. Appendix Rule of evidence: Rule 401 Definition of "Relevant Evidence": Means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable that it would be with the evidence. (Pub. L. 93-595, 1, Jan.2, 1975. 88 Stat. 1931)

Notes of advisory Committee on proposed Rules: Evidence which is essentially background in nature can scarcely be said to involve disputed matters, yet it is universally offered and admitted as and aid to understanding. Charts, photographs, views of real estate, murder weapons, and many other items of evidence fall in this category. A rule limiting admissibility to evidence directed to a controversial point would invite the exclusion of this helpful evidence, or at least the raising of endless questions over its admission. Cf. California Evidence code 210, defining relevant evidence of tendency to prove a disputed fact.

Title 28 U.S.C. Civil Procedure: Rule 43 (e): When a motion is based on facts not appearing of record the court may hear the matter on affidavits presented by the respective parties, but the court may direct that the matter be heard wholly or partly on oral testimony or despositions.

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Title 28 U.S.C. Civil Procedure Rule 52 (b): Upon a motion of a party made not later than 10 days after entry of judgment the court may amend its findings or make additional findings and may amend the judgment accordingly. The motion may be made with a motion for a new trial pursuant to rule 59. When findings of fact are made in actions tried by the court without a jury, the question of the sufficiency of the evidence to support the findings may thereafter be raised whether or not the party raising the question has made in the district court and objection to such findings or has made a motion to amend them or a motion for judgment.

Title 28 U.S.C Civil Procedure Rule 59 (a-2) A new trial may be granted to all or any of the parties and on all or part of the issues, on a motion for a new trial in an action tried without a jury, the court may open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law or make new findings and conclusion, and direct the entry for a new judgment.

Title 28 U.S.C. Appellate Procedure Rule 4 (b) Appeals as of right when taken to amend or make additional findings of fact under rule 52 (b).

Title 28 U.S.C. Judiciary and Judicial Procedure s 452. Court always open: powers unrestricted by expiration of sessions All courts of the United States shall be deemed always open for the purpose of filing proper papers, issuing and returning process, and making motions and orders.

Title 28 U.S.C. Judiciary and Judicial Procedure s 2071 (a) Rule-making power generally: The Supreme Court and all courts established by Act of Congress may from time to time prescribe rules for the conduct of their business. Such rules shall be consistent with Acts of Congress and rules of practice ad procedure prescribed under section 2072 of this title.

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Title 28 U.S.C. Judiciary and Judicial s 2072 (a, b) : a) The Supreme Court shall have the power to prescribe general rules of practice and procedure and rules of evidence for cases in the United States district courts (including proceedings before magistrates thereof and courts of appeal. (b) Such rules shall not abridge, enlarge or modify any substantive right. All laws in conflict with such rules shall be of no futher force or effect after such rules have taken effect.

U.S. District Court, Southern District, R. 30.1 (a5, c) Questioning that unfairly embarrasses, humiliates intimidates, or harasses the deponent, or invades his or her privacy absent a clear statement on the record explaining how the answers to such questions will constitue, or lead to, competent evidence admissiable at trial.

Other authority cited:

Judgment ceases to be judicial if there is condemnation in advance of trial--Cardozo: Escoe v. Zerlist, 295 U.S. 490, 494

The Constitution of the United States does not secure to anyone the priveledge of defrauding the Public-Harlan: Pluniley v. Massachusetts 155 U.S. 461,479.

The Public purpose is to promote the progress of science and useful arts. The exlusive right of the inventor is but the means to that end. Douglas: Special Equp. Co. v. Coe, 324 U.S. 370, 382

It is the result of an inventive act the birth of an idea and its reduction to practice the product of original thought: a concept demonstrated to be true by practical application or embodiment in tangible form--Roberts: United States v. Dublieer Condenser Corp., 289 U.s 178, 188.

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Realities must dominate the judgment--Hughes: Appalachian Coals v. United States, 288 U.S. 244, 360

The Command is addressed to him, since the duty is his, he may not escape it by delegating it to others---Cardozo: People Ex Rel. Price v. Shef-Field Farms Co., 225 N.Y. 25, 29.

A duty declared by Congress does not evaporate for want of a formulation sanction--Frankfuther: Montana-Dakota Util. Co., v. North Western Pub. Serv. Co., 341 U.S. 246, 261

A court of equity ought to do justice completely and not by halves--Sutherland: Rice & Adams Corp. v. Lathrop, 278 U.S. 509,515

Rules of evidence are adopted for practical purposes in the administration of justice, and must be so applied as to promote the ends for which they are designed --Thompson: United States v. Reyburn, 6 Pet (31 U.S.) 352, 367

The Production of weak evidence when strong is available can lead only to the conclution that the strong would have been adverse, Silence then becomes evidence of the most convincing character. Stone: Interstall Circuit v. United States, 306 U.S. 208, 226

Conduct which forms a basis for inference is evidence. Silence is often evidence of the most persuasive character--Brandesis: United States Ex Rel. Bilokumsky v. Tod, 263 U.S. 149, 153-154

Substantial evidence is more than a mere scintilla. It means such relevant evidence as a resonable mind might accept as adequate to support a conclusion--Hughes: Consolidated Edison Co. Vs. NL RB, 305 U.S. 197, 229

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Society is entitled to every man's evidence –Frankfurther: Rios v. United States, 364 U.S. at P. 234

APPENDIX F --- OTHER MATERIAL WHICH IS ESSENTIAL SHOWING SUBSTANTIAL EVIDENCE SUFFICIENT FOR A JURY TO FIND ACCESS AND SUBSTANTIAL SIMILARITY

A: Copy of certified cards addressed to Doubleday Co. where I sent my 311 page manuscript titled "The Bold Truth"

1. one dated April 1974
2. one dated May 1974
3. one addressed to me from Doubleday (not dated)

B: Letter to Lisa Drew From Alex Haley dated March 15, 1975 explaining he just came up with and additional 300 pages for her to view: in part reads:

"Paul said you really were excited about the last 300 pages you received. I'm glad! me, too, in their writing. He said you recommend some cutting, as there's some repetition of effect; I entirely agree."

"Lisa, the enclosure has a great portent: I can't conceive a greater promotion for a book. Paul says you're projecting February 1975 publication. ABC-TV is projecting around the same for the first showing of this 14-hour series (then again during the fall); I'm told the estimated audience for each of the seven segments is 50 million viewers--which translates to one whale of a lot of book sales, right?"

C: Letter to Sam Vaughn from Lisa Drew, RE: Roots by Alex Haley dated May 2, 1975 (17 months before Roots was published David Wolper, Alex Haley, Pyke Johnson, Lisa Drew and others had conversation about T.V. rights with ABC. ABC Interrogatories quote different) letter in part reads:

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"Some very exciting things are happening with the book. It is an option book of the reader's digest book club I understand from Ted (although you my want to check with him about this) that it is automatically and A book at Book-of-the-month Club, although they've seen little of any of it. David Wolper has purchased the t.v. movie rights and has worked out a deal with ABC whereby they will run the film as seven, two-hour segments running seven consecutive nights. Alex called me two days ago to say that this was locked in at ABC the last week of February 1976. Between us, this is a bit dicey from our stand point, because I don't expect the rest of the manuscript in until June, 15 and there will be at least two or three weeks cutting time on that. This is not for you to worry about as I will work out some sort of modified crash schedule with Pyke. We certainly don't want to lose the impact of the television series by publishing a month afterward."

D: Certificate of Registration: Plaintiffs has on record with the lower court a copy of my valid Copyright proving ownership of my manuscript "The Bold Truth" naming me Emma Lee Paul as owner, bearing registration number 731165 class A dated April 1, 1976

E: Aley Haley's "Roots" was Published September 1976, in the pages of the Acknowledgment Haley thanks Sims and Fisher: (all three are named as editors for Doubleday, and the Village Voice news speaks of two other writers that assisted Haley in his making of Roots naming Fisher as one of the writers the other unknown): Acknowlegment in part reads:

"George Sims, my lifelong friend from our Henning, Tennessee, boyhood, is a master researcher who often traveled with me, sharing both the physical and emotional adventures. His dedicated combing through volumes by the hundreds, and other kinds of documents by the thousands-"

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"Murray Fisher had been my editor for years at Playboy magazine when I solicited his clinical expertise to help me structure this book from a seeming impassable maze of researched materials. After we had established Roots pattern of chapters, next the story line was developed, which he then shepherded throughout. Finally, in the books pressurized completion phase, he even drafted some of Roots scenes,"

F: February 7, 1977 Lisa Healy sent a letter to Alex Haley (Lisa Healy is also named as a Doubleday editor) and reads:

"For the record, we have sold second serial magazine rights for Roots to the National Star who will use 12,000 words from chapters 114-120 in their issues of February 22nd and the two following issues. They will Pay $ which is a split.

Best Wishes,
s/Lisa Healy "

G: June 22, 1977 a letter was addressed to Irwin Russell Esq. (David Wolper attorney, Wolper who made a deal 17 months prior with ABC to own tv rights of Haleys -Roots) (Haley also named as a editor with Doubleday) from Johnna Levine (ABC) setting out the legal terms: part reads:

"The following sets forth my understanding of the terms agreed upon by ABC, and the Wolper organization, Inc. and Warner Bros., with respect to the Roots sequal programs."

"7. ABC shall have all those creative and business approval rights that it had with respect to the original twelve hours of Roots program, and in addition, shall have the right of approval of the casting director. David Wolper is hereby approved as Executive Producer, and "

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H. August 30, 1979 a letter was sent to the attention of Alex Haley from attorney Kenneth Henson per my request Prior to any lawsuit being filed against Haley by me for his infringement of my manuscript The Bold Truth: which reads:

" Dear Mr. Hailey:

I have been retained by Mrs. Emma Paul to represent her in a suit against you, The American Broadcasting Corporation and Doubleday Publishing. Mrs. Emma Paul came to my office in Columbus, Georgia, on May 5, 1979 from Amityville, New York. Prior to filing a suit against you, I felt it only proper that I give you and opportunity to examine the claim of Mrs. Paul.

In 1973 Mrs. Emma Paul submitted a manuscript entitled "The Bold Truth" to Doubleday Publishing Company. "The Bold Truth" is the story of Emma Paul's life in th south as a black woman prior to the 1960"s. Mrs. Paul contends that in writing the script for Roots II: the New Generation that you borrowed some of the ideas, thoughts and language from "The Bold Truth". I have read "The Bold Truth" and watched every segment of Roots II when it appeared on television. Since Mrs. Paul was writing about the south prior to the 1960's, it would only be natural that her experiences would be similar to the experiences of the characters in Roots II: the new generation. However there are several glaring similarities in some of the stories and language in Roots II: the new generation and The Bold Truth. It is my understanding that while you were researching the Roots story that you employed several people to do research for you.

It is my sincere belief that somewhere along the line, someone borrowed the ideals, thoughts and language of Mrs. Emma Paul from The Bold Truth. Prior to filing suit against you and any of the other parties which might be made proper parties to the suit, I would like to have the opportunity to examine the script to Roots

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II: the next generation. I will be more than happy to give you a copy of The Bold Truth so that you may examine it and weigh the merits of Mrs. Paul's claims.

If you have any questions regarding this matter please do not hesitate to call or write me.

Very truly yours,
s/ Kenneth M. Henson,

Jr."

KMH, Jr:cn

cc: Mrs. Emma Paul "

I: September 4, 1979 Alex Haley sent a letter to Brandon Stoddard of ABC advising him of my aligations before he sent the letter to any attorney. (Stoddard is named as a programmer in ABC's interrogartory) it reads:

" Dear Brandon:

The enclosure is just for you to glimpse for information before relaying it to ABC legal folk. A lady seems to feel that "Roots" The Next Generations" incorporates "ideals, thoughts and language" that were "borrowed" from something she wrote.

How go the two hats, my friend? Given your talents, in time you'll resemble a hydra!

Warmest,
s/ Alex"

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J: September 27, 1979 a letter was sent to my attorney Kenneth Henson from ABC legal team Loeb and Loeb: it reads:

" Dear Mr. Henson:

I am responding to your letter of August 31, 1979 addressed to my client, Mr.Alex Haley, whom I have represented since 1968.

I am totally familiar with the production of "Roots II: The Next Generation" and its development from the creation of the basic story material through the writing of the individual scripts for each of the episodes.

I can state unequivocally that Mr. Haley, prior to receiving your letter, had never heard of Mrs. Emma paul, nor her manuscript entitled "The Bold Truth". As well, Mr. Haley had no contract what so ever with anyone employed by or representing Doubleday Publishing Company in connection with the writing and/or making of "Roots II: the new generation".

I must conclude that the glaring similarities you refer to in your letter must be coincidences, if in fact they do exist.

Very truly yours,
s/ Louis C. Blau

LCB:11c "

K. I did file suit against Alex Haley, Doubleday, Dell publishing, and ABC Inc. for infringing my manuscript. December 1984 I received a letter from my attorney James P. Malone: (here is proof Haley did help write Roots the next generation using Roots itself also proof of the hand written

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note which is detailed about my Manuscript The Bold Truth) part reads:

"It appears that Lisa Drew was the Cheif Editor, we will have to subpoena her on E.B.T."

"It took Haley a number of years to finish the Book. He started dealing with Doubleday in 1966. Around 1974 there was pressure on Haley to finish. There is a reference to a second book "My Search for Roots", I do not know if this book was ever published.

P. Reynolds assisted in cutting approximately three hundred pages, he was an outside consultant P. Reynolds Inc. There are some handwritten letters by Alex Haley. There is no indication of location of disposition of manuscripts.

Haley wrote that he wrote the Television "Roots Next Generation" from the last thirty-five pages of Roots and in addition he dictated approximately two thousand pages. We may be able to get this material from A.B.C. or Alex Haley."

Ka.) Attached to this letter was a copy of the Hand written note by Alex Haley written in a way only he was to understand. all reads:

" The Bold Truth
who was the Editor? does'nt matter
many errors Double - Day
Consider rewrite
Why rejected

Blue-eyed black baby

need names wounded animal on other side of track

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feel she knows because she is among the white people

Place of 5 loose skirts

are you saying
against mixed marriages

EXT" etc."

Kb). Now I give you the explanation in part of the hand written note what it means and where it is found in The Bold Truth and in the novel Alex Haleys Roots.

1. Haley names The Bold Truth
2. Haley questions who is the editor than wrote does'nt matter
3. Haley points out there is mistakes
4. Haley considers to rewrite
5. Haley questions why rejected, then draws an arrow to many errors
6. Haley wrote to the right side of page Doubleday
8. Haley writes Blue-eyed baby:

Reads from The Bold Truth page 2 paragraph 1 and page 11 paragraph 2

" Her father could have passed for white, my sister said. But he was black. Mary had Blue eyes. "

" When I was four and a half years old, a bue-eyed, half white child was born to my sister Gladys.

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Reads in Roots page 629 paragraph 1 & 2

"He met her already rushing from her cabin, shouting back over her shoulder at a bug-eyed lil kizzy and Mary."

"Tom, then the rest of the family became a procession trooping in to see the wan but smiling Irene and the crinkly-faced brown infant."

9. Haley writes Need names (here is 21 actual names or skirted names found from the pages of The Bold Truth and found within Haleys Roots)

"TBT-William pg1, Mattie pg 3, Pearl pg 225, George pg 18, Johnson pg ded, Bassa pg 117, Abel pg 67, Mattie Lee pg 110, Ellen pg 246, James pg 5, Mae pg ded, Isaiah pg ii, Emma pg 55, Davis pg 1, John pg 44, Annie pg 91, Ann pg 44, Retha pg 192, Mozella pg 310, Lincoln pg 173, Dewitt pg 149."

"Roots-William pg 684, Hattie pg 286, Pearl pg 357, George pg 466, Johnson pg 638, Massa pg 560, Abel pg 105, Hattie Mae pg 286, Ellen pg 629, James pg 627, Mae pg 286, Isaiah pg 104, Emma pg 549, David pg 104, John pg 684, Emily pg 599, Anne pg 408, Bertha pg 659, Moses pg 105, Lincoln pg 553, Jewitt pg 483."

10. Haley writes Wounded Animal on other side of track

found from the pages of The Bold Truth pg 17 paragraph 1&2 and page 27 Paragraph 2

" We had a dog named skippy. Skippy was a very large, brown dog."

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" One man owned a German Shepherd dog and skippy got into a fight with it. The German Shepherd chewed up and beat Skippy so badly he died."

" I did not pay much attention to why we had to live on one side of the tracks and the whites lived on the other side."

found from the pages of Haleys Roots pg 42 paragraph 1, pg 415 paragraph 2

" It was that most feared and dangerous of all beasts-a maddened buffalo."

"The one he tracked had spread so much terror throughout the land that many hunters had been sent to kill the savage animal, but they had managed only to wound it."

" Some slaves liked to sit on foot-high sections of logs off to one side, on the opposite side, the awaiting white."

11. Haley writes feel she knows because she is among the white people:

Found from TBT pg 75 paragraph 1 & 2 , pg 139 paragraph 4

" I believe I can say this out of a pure heart and a sound mind. From four years of experience, when tragedy struck in my home, my strength came from my white brother.

I am saying outlound clear to the world that if it had not been for some of those good white folks down South,

The Blacks many times were their own worst enemy. Instead of settling their differences among themselves, they went and shot their mouth to the white man.

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Found from the pages of Alex Haleys Roots pg 352 paragraph 4, pg 476 paragraph 5

" Keeps tryin tell you it's some good white folks! she exclaimed fact of de matter.

Plenty good white people would be dying tonight if one nigger hadn't told his massa just in time. Proves you never can trust none of you nigger"

12. Haley writes-place of 5 loose skirts (here I will give you the definition to skirts which will explain Haleys intentions for himself and a message to anyone else how to use my manuscript The Bold Truth, and I will give you 17 actual (21 Skirted) places found in both The Bold Truth and ALex Haleys Roots,)

"Skirts-1.to form or run along the border or edge of: Border 2a: to provide a skirt for b. to furnish a border or sheild for 3a.: to go or pass around or about: specif: to go around or keep away from in order to avoid danger of discovery b: to avoid because of difficulty or fear of controversy < ed the important issue> c: to evade or miss by narrow margin < having ed disaster Edith Wharton> Vi: to be, lie, or move along an edge, border, or margin--skirter "

(Example of Skirting: to create the word Hamilton for Roots using the word Bahamians from The Bold Truth : first remove the front letters of B/a then remove the back letters a/n/s making sure to only remove a total of 5 letters, this can be from either the front end or the back end or both, the letters left will e H/a/m/i now add your letters back but no more than 5- H a m i l t o n you have created a new word by using Haley's skirt method. see more examples below)

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TBT: 1). United States pg 39, 2). Pennsylvania pg 2, 3). Alabama pg 86, 4).Bahamians pg 150 5). Amityville pg 209, 6). West Indians pg 305, 7). Alantic pg 105, 8). Atlanta pg 1, 9). New York City pg ii, 10).Seminole pg 80, 11). Florida pg 86, 12), North Carolina pg 38, 13). South Carolina 86, 14). Tennessee pg 86, 15). Jackson pg 3, 16). Georgia pg 86, 17). America pg 37.

Roots: 1). United States pg 675, 2). Newnited States pg 453, 3). Pennsylvania pg 595, 4). Spotsylvania pg 446 5). Alabama, pg 687 6). Alamance pg 628, 7). Hamilton pg 673, 8). Atlantic pg 683, 9). Utica pg 673 10). Atlanta pg 643, 11), New York City pg 672, 12), Seminole pg 537, 13). Florida pg 537, 14), North Carolina pg 627, 15). South Carolina pg 628, 16). Tennessee pg 672, 17). Jackson pg 653, 18). Georgia pg 653, 19). American pg 678, 20). West India pg 334, 21). Mcleansville pg 605

13. Haley writes Are you saying
Against Mixed marriages

Found from TBT pg 159 & 160 Paragraph 4 & 1

"She made it plain to us that she felt white should marry white and black should marry black. This way it wouldn't mess up the children. But my belief was that you should marry who ever you are in love with. I was taught that there was only one blood that we all came from when the world got started."

Found in Roots pg 415 paragraph 4

" If she did marry Noah, though, he thought, at least their children be black and not one of those pale borro babies,
Massa waller strongly expressing among friends his convictions against white and black blood being mixed."

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L. April 23, 1982 I gave my answers to Dell publishing Co, (Paperback for Double day) concerning my manuscript The Bold Truth: in part reads

" Question 13- was the bold truth ever published? if so state.Answer- No. Question 14- With respect to paragraph 13 and 14 of the complaint provide: (a) the name and position fo each person at Doubleday The Bold Truth was submitted to: Answer- The Bold Truth was submitted to Doubleday via P. Johnson, M.D.Brown and possibly others who were editors. (b) the dates thereof. Answer-May 1974 through December, 1974. (c) the names of the persons by who submissions were made. Answer- several draft copies were submitted by me to Mr. Sandy Richardson and Ms. Marie Dr.Brown, Pyke Johnson. (d) the exact dates The Bold Truth was returned by Doubleday. Answer- December, 7 1974"

M. October 7, 1985 Interrogatory of ABC: in part reads:

"#19 did ABC have any correspondence with Alex Haley relating to the Roots and Roots-The Next Generation?

Response: to interrogatory No. 19 yes: letter of September 4, 1979 from Haley to Brandon Stoddard: letter dated September 4, 1979 from Haley to Loes & Loeb (provileged).

#21. Who edited the material submitted by Alex Haley in the previous interrogatory. Does ABC have a copy of this edited material, all or in part, or any corres- pondence or reports relating thereto.

Response to Interrogatory No.21. persons who may have edited material are: Broadcast Standards and Practices ("BS&P") Proramming: Brandon Stoddard, VP Drama programs and Motion pictures for Television."

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N. July 17, 1986 Interrogatory of Doubleday: in part reads:

"**#1**.List the last known address of the following employees and or former employees: **a.)** Lisa Drew **b.)** Lisa Healy **c.)** Marie D. Brown **d.)** Pyke Johnson, JR. **e.)** George Sims **f.)** Murray Fisher **g.)** Alex Haley

#20 Did Doubleday have any safeguards to assure that Plaintiff's manuscirpt of The Bold Truth were protected from unauthorized use? if so describe.

Response: Yes. The Bold Truth was reviewed only by the Doubleday employee assigned to review that manuscript, was shown to no one else, and, subsequent to said review, was returned to the author.

#25 Did anyone assist Alex Haley in writing or editing the book Roots. If so, identify the person (s), time and place of such activity.

Response Yes. Lisa Drew was the editor that worked on the book Roots."

O. September 5, 1986 Interrogatory Answers of Alex Haley: in part reads:

"**Interrogatory No. 5** Have you ever seen or heard of the book "The Bold Truth" prior to the institution fo this lawsuit? If so, when and under what circumstances.

Response: No.

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Interrogatory No. 6 Have you ever heard of Emma Lee Paul prior to the institution of this lawsuit? If so, when and under what circumstances.

Response: No"

P. December 8, 1989 attorney James Malone sent me a letter it reads:

I enclose copy of Judge Christ's order denying Defendants Summary Judgment, which means that we will have a trial. I will keep you advised.

Very truly yours.

s/James P. Malone

JPM;cg
enc"

Q. April 18, 1990 I received a letter from my attorney James P. Malone ABC wanted to settle. it reads:

" I wrote to ABC and demanded 225,000.00. Their attorney called and offered us 15,000.00 and we probably could get another 50%. So I guess we will not be able to settle with ABC. We have a better case against Doubleday than ABC.

Very truly yours
s/ James P. Malone

JPM: cg

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R. Letter to Mr. Bohrer, Esquire from my Attorney Joseph Zallen, P.A.Via Computer Fax & Via Mail explaining Pauls contention of Copyright infringement.

JOSEPH ZALLEN, P.A.
law offices
patents trademarks copyrights
2601 East oakland Park Blvd.
Suite 208 Fort Lauderdale, Florida 33306
Voice 954.565.9506 Fax 954.568.0825

Sanford L. Bohrer, Esquire
Holland & Knight
P.O. Box 015441
Miami, Fl 33101

Re: File P-02576, USDC, SDFL Case No. 95-2414-Civ-Moreno
EMMA LEE PAUL v. WILLIAM MORROW AND COMPANY INC., of New York, New york, CBS INC., of New York, New York, and SIMON & SCHUSTER, INC., of New York, New York

---

Dear Mr. Bohrer:

This is in response to your letter of January 23, 1996 regarding the basis for Mrs. Paul's contentin of copyright infringement.

Mrs. Paul's first contact with Alex Haley's Queen was the CBS broadcast in 1993. Until she listened to the broadcast, she had no knowledge or belief that it had anything to do with her book The Bold Truth. however, after she began to view and listen to the broadcast, she felt that this seemed to be a story about herself. As she continued to view the entire series, she concluded that much of what was in the series was from her book. Many of her friends

who listened to the broadcast and were acquainted with her book said that the series seemed to be a story about her. After the series was conclued, she purchased a copy of the printed book, Alex Haley's Queen, and made a study of the book as compared with her book. She did this several times, and each time she read Alex Haley's Queen, she had additional findings that appeared to be from her book.

My appraisal of the Doubleday litigation, based on the court decisions, as well as extracts from the record in those cases is that the plaintiffs case was extremely poorly presented, and except for one issue is completely different from the present case. That issue is my client's contentin that Doulbleday supplied Alex haley with a copy of her book The Bold Truth.

In the present case Alex Haley, having full knowledge of Mrs. Paul's book worked with Stevens over a considerable period of time to produce Alex Haley's Queen, a book of more than double the length of Mrs. Paul's book. the authors clearly had Mrs. Paul's autobiographical work in mind when composing their work. I have attached a rough provisional comparison. You will note that the main infringment is the large-scale appropriation and substantial imitation of the characters and incidents contained in Mrs. Paul's book. The copying meets both the extrinsic and intrinsic tests of copyright infringement. the ordinary observer or listener or viewer would perceive substantial similarity of protected expression.

While the enclosed provisional analysis is principally with reference to the book, it is also applicable to the video production aired by CBS and the audio tapes produced by Simon & Schuster.

Sincerely,
s/Joseph Zallen

JZ/rs

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cc: Andrew F. Kim, Esq., via fax & mail (with enclosure)
Enclosure: Provisional Comparison (attached hereto)

Provisional Comparison of Alex Haley's Queen with Emma Paul's The Bold Truth.

One of the outstanding aspects of Alex Haley's Queen is that Mrs. Paul's life experiences are reproduced in the characters of Lydia, Annie, Easter, and Queen.

Mrs. Paul's book is an account of her own life from 1934-76. Queen is the title character's parentnal lineage from the last decade of the Eighteenth Century in Ireland to her life during the Civil War and into the early twentieth century. An authentic direct account of the heroic trials of a real-life black woman such as Mrs. Paul was at the hand for Haley and Stevens to read and assimilate into their novel. They clearly made use of the material.

Mrs. Paul's freguent sermons, homilies, and admonitions are unusual among the many available black women's autobiographies in that her preachment of love rather than hatred is directed to her own race; her admenishments regard the prejudices of black people, while she downplays the justification of such attitutudes. She seeks a beatific grail of mutual love based on the Christian humanity provided by her preacher-father and inspired by biblical injunction. Queen covers exactly that same ecclesiastical ground from the opposite point of view. There Christian charity is constantly conflated with contorted interpretations of the Bible which suppress black people, subject them to grossly inhumane pratices in fulfillment of holy scripture for their salvation, and at the same time specifically deny them an eternal soul.

Throughout most of Queen masters, mistresses, patriarchs, spinster sisters, all men and woman, black and white, in positions of power, take advantage of Queen and her ancesor surrogates,

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Annie and Easter, but in the end Queen finds people, both black and white, of good will, who come to her aid and create an atmosphere in which she can flourish, raise her children, and learn that common humanity is indeed a part of human nature. She is able to marry Haley's grandfather and be matriarch to ensuing generations, education being the key to the family's subsequent success.

Emma Paul, in slightly less stark circumstances, likewise cherishes education as the key for future generations flourishing, and her stories regarding the schooling of her children and their success represent the ultimate achievement of their educational dreams, with undergraduate and graduate degrees, etc. The suffering of both woman drives each ultimately to pyschiatric care, and ultimately to an appreciation of the acceptance of the love and charity of others.

In addition to overall similarities between the struggles of black woman for a measure of independence and freedom from economic and social oppression that form the basis of the two works, there are striking individual parralles. The Reverend William Davis is Emma Paul's father. he is an inspiration not only for his children, but for the entire community, a spokesman for Christian tolerance and a rallying leader for the southern black community.His counterpart in Queen, Davis, the father of abner by Queen, searches for his mission in life, is inspired by Queen, and becomes through his powerful rhetoric the leader of the black union movement in Savanhah after the Civil war. Transfigured by Queen's message of love-- "Don't hate". she whispered on his ear. "there's no need to hate now." (Queen, 645). He sacrifices his life for future generations, personified in his little captive son, and begins the emancipation movement among freed men forced into economic slavery by repressive capitalists.

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Davis' final message may well be that of his namesake, Emma Paul's father as transmitted by Emma/Queen:

> Queen had been right all the time. Hate was meaningless, negative. Love was the sulime driving force, for what was love but faith and trust in another person, and hope for the future. And the greatest gifts a father could give his son were faith and hope and love. (Queen, 713)

The bonding of dark skinned Emma and her unnamed white friend (TBT, 158-175) closely paralles the friendship of Alice and Queen, both mulattos who were light skinned enough to pass for white. The interchangeablity and discovery by each race of what being a member of the other feels like suffuses each of the paralles scenes (TBS, 173 Queen, 597), and Emma Paul's admonition might well have been intended for Queen: "A white woman played the roll of a queen, and a southern bell[e] even though she wasn't on a throne. She had better not get caught in the wrong places." (TBT,173)

Emma's demonstrable sales and management talent, first as vegetable salesperson on the family's St. Augustine routes (TBT, 107-111) and then a s boss of the New York potato farm pickers and sorters (TBT, 230-241), directly paralles Queen's aptitude as a manager of the plantation during the hard times at the end of the war--where she is referred to as "mistress of the cotton fields" (Queen, 490-92, 501) and later as a flower arranger and salesperson (Queen, 600)

The leadership and economic savvy displayed by Emma Paul earned her the same "Queen Bee" (TBT, 230) just as Queen's name is metaphorically justified by her own self-sufficiency. Their utter independence, lust for freedom, and willingness to surmount any obstacles to get to their goal characterize both Emma and her Haley surrogates, Annie, Lydia and Easter, and culminate in

Queen herself.

S. March 19, 1996 Emma Lee Paul requested to go Pro Se: it reads:

" I, EMMA LEE PAUL, have requested that Joseph T.Kissane, Esquire prepare a notice allowing me to appear Pro Se in the following described case:

Case No. 95-2414-CIV-MORENO
U.S. DISTRICT COURT, SOUTHERN DISTRICT OF FLORIDA

I understand that by filing this notice I will be representing myself without the help or assistance from any lawyer. Mr. Kissane has explained to me how difficult it is for someone to represent himself or herself, paticularly when he or she is unfamiliar with the applicable law and procedures. Mr. Kissane has also strongly encouraged me to attempt to obtain another lawyer to represent my interests in this matter. I understand these instructions.

Dated: March 19, 1996

s/ Emma Lee Paul

T. April 2, 1996 letter to Emma Lee Paul for Sanford Bohrer after Ms. Pauls visit to Holland & Knights office. in Whole reads:

HOLLAND & KNIGHT
701 Brickell Avenue
P.O. Box 015441 (ZIP 33101-5441)
Miami, Florida 33131
305-374-8500
Fax 305-789-7799

Appendix F

April 2, 1996

Ms. Emma Lee Paul
1540 N.W. 203rd Street
Miami, Fl. 33169

SANFORD L. BOHRER
305-789-7687

Re: Emma Lee Paul vs. William Morrow and Company, etc
Case No. 95-2414-Civ-Moreno

Dear Ms. Paul:

As I indicated in our conversation yesterday, my clients do not believe there was an infringement of your copyright, and the purpose of the written analysis you and I discussed and which is referred to in the scheduling report for the Court is to show me and my clients just how the book, the audio tape, and the mini-series do infringe. In this regard, I think it is important to emphasize some critical facts.

First, as I have told you, Alex Haley did not write the book, did not write the script for the audio tape, and did not write the script for the mini-series. All of the writing was done by David Stevens, who until this lawsuit had never heard of you or your book. Second, the mini-series was written before the book, and key protions, apparently including portions you think were taken from your book, were simply made up by Mr. Stevens without consulting Mr. Haley or any of Mr. Haley's resource materials. Third, neither your book nor any part of your book was included in Mr. Haley's resource materials. Thus, the author, Mr. Stevens, had no access whatsoever to your book.

This means that the key assuption on which you base your infringement claim- that Mr. Haley, through Doubleday, obtained access to your book, and used that access in writing Queen, the audio version of Queen, and thereafter the mini-series - is not true.

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Thus, for you to contend that the book, the audio , and the mini-series Mr. Stevens wrote were taken from your book strikes me and my clients as simply illogical.

I remain open- minded on what your analysis will show, but I ask that you consider the facts set forth above and decide whether you wish to further pursue your lawsuit.

U. March 7, 1997 I sent a motion asking for reconsideration based on the fact, Alex Haley did have access to my manuscript. in whole reads

Emma Lee Paul
1540 N.W. 203rd St.
Miami, Fl 33169

Re: File P-0256
Case # 95-2414-CIV-MORNEO
Motion- Re-Open Case

The Honorable Judge Moreno, I am asking for reconsideration for my case to be re-opened because of the error tht Mr. Haley did not have access to my material (book.)

I contend that Mr. Alex Haley did have access to my materials through the Double Day company.

s/ Emma Lee Paul

V. February 17, 1998 I sent a motion to the appeals court in reference to a motion I received from the lower court that was over one year old? in part reads:

February 17, 1998

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United State Court of Appeals
Eleventh Circuit
District Court Clerk
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

Motion to File
UNDERSTANDING
Case # DC DKT NO; 95-02414 CIV-FAM / RE; 97-4511

I ask this court to grant me understanding that in no way have I recently ask for any informatin from the District Court in Miami. I am confused, I received by mail- Order denying motion for return of property, and motion to re-open case signed by the honorable Judge Federico A. Moreno, (no full Signature?). dated February 9th, 1998. I did ask to have my return for property (the summer of Ben Taylor) March 24, 1997. and I did ask for reconsideration of reopening on March 14, 1997, (this was over 11 months ago) The honorable Judge denied reopening March 18, 1997 goes as follows:

W. Copy of AFTERWORD pages 669, & 670 from Alex Haley's and David Stevens Queen Book, (set out verbatim) reads:

"Alex was often asked how much of Roots was fact and how much fiction. I have been asked the same question, and my answer is similar to his, although less emphatic."

Most of the lineage statements in this book can be documented, except the most critical one. I do not have in my possession written evidence that James Jackson, Jr. Fathered Queen, and I think it is unlikely that such evidence exists. Queen believed it. Alex Believed it. It was accepted, in my presence, by several of the white descendants of the Jackson family. Alex was welcomed by them as a cousin, and several of them journeyed

from Alabama to his farm in Tennessee to give him a memento of the Forks of Cypress, and to Welcome him, officially, into the family.

There is a major genealogical error, however, concerning the Jackson family, and to them I apologize. In all my discussions with Alex, my concern was for Queen and her direct lineage, and the early research provided to me suggested that James Jackson, Jr. ("Jass"), was the first born son of James and Sally Jackson. After Alex's death, when I began work on the book, I uncovered later research that documented the birth of an earlier son, Andew Jackson Jackson ("A.J."). Obviously, Alex was aware of this, but none of this notes for the novel gave me any indication of how he intended to incorporate A.J. into the story. In trying to find a path through the clutter of this nineteenth-century family, and because A.J. hardly affected Queen's life, I have invented an untimely death for him. In fact, he lived to a good age.

Beyond that, almost all the people are where they should be almost all the time, although I have given a couple more years of life to Pocahontas Perkins than she actually enjoyed, and her daughter, Lizzie, is born a tad earlier than in life. Uncle Henry in Ireland and Uncle Hugh in Philadelphia have been combined into one character.

I doubt that young James was ever called Jass, but as he, his father, and his grandfather were called James Jackson, I thought some clarifying nickname was necessary.

I have also been asked how much of the book was written by Alex and how much by me, and I find this impossible to quantify. I have a seven-hundred-page outline provided by Alex, boxes and boxes of his research are available to me, and some finished pages for the book, but my major resource was Alex himself. His head was full of the stories that constitue this work, and I spent two of

the happiest and most informative years of my life listening to those stories and debating them with him. Some scenes we wrote together, around the kitchen table at his farm, on a banana boat to Ecuador, and during journeys of exploration to the South.

I am aware that some historians dispute some of Alex's conclusions. Given certain constraints of time, I have done my utmost, and have employed staff, to verify his research. In the mass of reference works we have consulted, some few stand out: the several volumes of A People's History by Page Smith: Reconstruction by Eric Foner: Michael Paul Rogin's Fathers and Children, and specifically for Andew Jackson, The Border Captain by Marquis James. The diaries of Mary Chestnut were invaluable for confirmations of the society's attitiude to relationships such as that of Jass and Easter, as were several reference works about Thomas Jefferson and his thrity-nine-year relationship with his slave mistress, Sally Hemings.

I am keenly aware that this is not the book Alex would have written. Like Roots, This was to have been a personal history of his family, and he told it to me as such. But it is not my history, my family, or my people, black or white. When Alex died, I had to move into new and unfamiliar territories. Not a historian, I had to piece this history together, and it is a period of high definition for many Americans. I am sure some will be offended by my assumptions, and to those offended I can only shrug my shoulders and say sorry.

Alex wrote the following statement about his intentions:
"This book will convey visceral America. For our land of immigrants is testimonial to the merging of the cultures of the world, and of their bloodlines."

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I am not American, but for me, the overriding achievement of Roots was as a spectacular metaphor for the travails of every black family in this country and their journey through history. In that sense Queen is also a metaphor, a representative woman for the thousands upon thousands of children of the plantation who were dispossessed of their families and their heritage. I can only be grateful for this extraordinary opportunity to pass on what Alex left behind, and grieve with all my heart the circumstance that brought it about.

X. Newspaper articles which brings such questions to the public that reference the truth behind Alex Haleys Hoax. Information provided below will be in part from different articles, which Attorney Mr. Bohrer did not object to being true in the October 10th, 96 transcript.

Xa. February 23, 1993 The Villiage Voice Responds in part: Secret tapes & private papers reveal how the celebrated author faked the Pulitzer prize wining Roots: in part reads:

"Haley quotes: " It would be a scoop to beat all hell if Roots could be proved to be a hoax. and that's one of the reasons why it was so important to me to document as best I could." Alex Haley. The New York Times. April 10, 1977.

Double Day took the unusual step of marketing Roots, which Haley set out to do as a novel, as nonfiction." In Federal Judge Robert Wards court, where is issue was the content of Haleys Character, "Despite the defendants' repeated claim that he had never seen or heard of Harold Courlander's book and could not have stolen his words, Judge Ward did not believe him. The copying were too many and Haley's explanation-strangers handed the quotes to him on the lecture trail, and they inadvertently landed in Roots--too implausible. Convinced Haley was lying the Judge let Berger know that he was considering a perjury finding.

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Haley was not telling the whole story. Other fears haunted him: the Courlander plagiarism was only one of his trespasses. As Haley admitted under cross examination, he lifted passages from several books, and other sources to fill up the pages of Roots.

Quoted Harvard professor Oscar Handli's severe observation about Roots: "a fraud's a fraud".

Courlander might not have prevailed. "The trouble with Margaret Walker, "Haley told a friend of Walker's and Haley's, is that she didn't have the right lawyer."

Recalling testimony during her case.. Margaret walker is convinced that Haley's playboy editor Murray Fisher is central to understanding Roots. "Haley was a hack and needed professional help" she argued, saying Fisher largely wrote Roots. Two Haley letters divulged by his Doubleday editor Lisa Drew at Walker's hearing demonstrated that Haley and Fisher fought over credit for the book just as the completed manuscript was being readied for the publisher in October 1975. Fisher wanted Edited by Murray Fisher stamped on the title page, a demand Haley agreed to reluctanly. Haley later reneged on the pledge after becoming angered by Fisher's, boorish I'm the boss behavior during a story meeting with the producer of the miniseries. According to the correspondence, Haley erased his editor from the marquee and told him off at the same time. New west magazine later reported that Fisher got a 10 per cent royalty cut, which would add up to an estimated 500,000.

"It was just money, money, money," Walker said of her one time aquaintance whom she invited to address students at Jackson State College, where she was professor of English. "All Haley did was come down here and steal from me. And when I sued him, I was insulted for having the nerve to hurt this black man. The media made me look like a crazy old jealous woman. "Her anger has

reawakened with Haley's third and current miniseries, Queen, which she said has killed Jubilee's chances of being filmed for television. "That's where the bitter taste comes in.

Editing Alex Haley: at 87, Ken McCormick, the former Doubleday editor in chief, is frail, but when he reminished about Alex Haley he was as fesity as Jededish, Leland recalling Charlie Kane. "Haley was an intriguing guy." McCormick observed last fall in his West Side apartment. "Almost anything you could say about him is negotiable."

McCormick said that he started to wonder about Haley's reliability every time he came in with a request for $10,000.00 more in advance, without showing or delivering any manuscript. On the question of authorship, McCormick mentioned a second and third writer. This development followed the first 185 -page installment Haley brought Doubleday in 1971. "The material was a mess." McCormick said, repeating his advice to Haley. "Alex , quit kidding, we want this book to go. work with a writer and we'll pay for him... We got a lot of rewriting and paid two people who really wrote the book.." When asked for their names he remembered Murray Fisher's but not the other.

Editor Lisa Drew in her testimony during the Courlander trial said she lobbied Doubleday's publishing committee to create the nonfiction label. Drew remained Haley's editor when she moved to Morrow. He owed her two more books--Queen--Henning

X And Haley---The Missing Chapters Haley denied Malcolm X any credit for pointing him toward African. Yet, according to Haley's researcher and lifelong friend George Sims, X always kept his distance from Haley. Haley, in turn, stubbornly denied X any credit for raising his consciousness, pointing him toward Africa, or inspiring Roots. Asked in 1990 by genealogist Charles Galbraith how X affected "your interest in your own roots, in

being a African American as opposed to being an American Negro." Haley, who never joined the black movement replied, "I would say near nothing. . Near none."

Fisher added that X sent him a postcard from Mecca saying, "Friendship of people like yourself gives me hope that black and white can learn to live in peace. "That was why I didn't take any money or credit for his book."

It appears that Haley broke a promise to Malcolm X about the autobiography that "nothing can be left out that I want in it." Yet X's introduction never made it to the printer, nor did three entire chapters.

Those unpublished chapters were explosive. "They entailed Malcolm's economic plan and would have made him look more scholarly, but the pulisher wanted to go for a violent and controversial image, and Haley did not have the leverage to say no." The missing chapters might have been omitted by Haley, or perhaps by Doubleday, which originally bought and then dropped the title. The Grove edition came from Doubleday galley's and Grove's founder. Barney Rosset said "he never knew that the missing chapters even existed.

Xb.) Roots & Grafts :

"There is no doubt that material from Courlander's book appears in Roots. Early in the court proceedings Haley himself admitted three such instances. In one instance Courlander and his lawyers had obtained, through pretrial discovery, a manuscript with verbatim passages from the African stapled to it. The passages with some slight alterations, had been incorporated into the published version of Roots. In the other two instances there was no evidence from notes, but the similarties were just as undeniable. To establish copyright infringment the plaintiff must

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prove not only that the defendant copied, but that he copied substantialy,. In his suit, Courlander contended that Haley had not only copied or paraphrased eighty one passages from the African, but that much of the first sections of Roots, dealing with Kunta Kinte's life in his African village, his capture, and his journey aboard a slave ship, had been modeled on the African.

Xc.) Two Writers Questions the Originality of Roots:

Referring to Haley's $5-million suit against Doubleday for breach of contract. McGrath said, "There is not animosity between Haley and ourselves we protect all our authors just as we protect ourselves, and we will fight just as hard for Haley in this matter as we will fight for ourselves."

There is a difference between the generalized common experience and the literary conceptualizations and images which describe it. Any two writers don't do it quite the same way."

Xd.) New & Notes:

New charges of fraud are being leveled at the late author just as the newest chapter in his family saga, CBS queen has become the season's top-rated miniseries.

America's love affair with Roots, the most revered miniseries of all time allowed Haley to emerge unscathed when writer Harold Courlander sued him for plagiarism of his novel the African. Haley paid him $650,000.00 in 1978. the Pulitzer Prize committee currently is considering Nobile's brief to rescind Haley's 1977 prize. The controversy may also cast a shadow on the book version of Queen, due from Morrow this May.

Haleys brother Julius, who lived with their grandmother Queen, insists that Queen was accurate and defends Alex's reliance on

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oral sources. "You did deep enough in anyone's works and you end up with negatives". Says Julius. "I can't see this going much further." Philip Curtin, a Johns Hopkins historican who tried to advise the author in 1967, doubts of denting Haley's teflon halo. "You can't win", says Curtin. "You're fighting TV.

Y. Samples of Similarities from Emma Lee Pauls, The Bold Truth and Alex Haley and David Steven's Queen: Ya

Character names:

TBT: William pg 1, Mary pg 1, Emma pg 55, Queen pg 230, James pg 5, Joyce pg 208, George pg 18, John pg 44, Jimmy pg 43, Davis pg 1, Annie pg 91, Alfred pg 303, Dick pg 3, Ellen pg 246, Isaiah pg ii, Fred pg 1, McSherry pg 267, Johnson pg ded-ii, Bassa pg 117, Turner pge ded 1st pg, Collings pg 192, Collins, pg 192, Ralph pg 190, Cain pg 190, Cain pg 67, Able pg 67, Tennie pg 9, Martin pg 54, Mattie pg 3, Pearl pg 225.

QUEEN: William pg 381, Mary pg 81, Emma pg 645, Queen pg 645, James pg 81, Joyce pg 535, George pg 335, John pg 31, Jimmy pg 81, Davis pg 550, Annie pg 126, Alfred pg 81, Dick pg 331, Ellen pg 81, Issaac pg 113, Fred pg 613, Massa Cherry pg 613, Johnson pg 642, Jass pg 259, Turner pg 377, Coll's pg 165, Ralph pg 248, Cain pg 107, Able pg 162, Tennie pg 612, 615, Martin pg 273, Pattie pg 295, Pearl pg 486/

State names:

TBT: Alabama pg 86, South Carolina pg 22, Georgia pg 86, Florida pg 86, Philadelphia pg 2, Texas pg 86, America pg 37, North Carolina, pg 37, New York pg 97, Amityville pg 192, China pg 250, Israel pg 53

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QUEEN: Alabama pg 126, South Carolina pg 126, Georgia pg 126, Florida pg 263, Philadelphia pg 57, Texas pg 234, America pg 54 North Carolina pg 106, New York pg 306, Hunstville pg 577, China pg 51, Israel pg 170

Yb

Samples of the same manner of expressions found in The Bold Truth and Queen Book: (examples below are also found in the Queen mini-series broadcast on television, and Queen Audio Cassette Tapes on record with the courts for view)

TBT: begins In the Presence of God (pg vi) Queen begins As the awlful presence of God (pg 1) both books begin with conversation to God or with God.

TBT: I worked 40 workers on two farms (pg 230) Queen: 40 people on two farms (pg 81)

TBT: I had a baby with my two sisters in the room (pg 204-206) Queen had a baby with two sisters in the room (pg 564)

TBT: I had two jobs (pg 230) Queen had two jobs (pg 633)

TBT: I am less than two years older than Fred (pg 288) Queen: Mary & Ellen is two years apart (pg 633)

TBT: My daughter Sharon is Two (pg 190) Queen: Eleanor is Two (pg 370)

TBT: I said the two of them wrestled (pg 18) Queen: the Two of them wrestled (pg 335)

TBT: Francine was about thirteen at the time (pg 222) Queen: at the age of thirteen (pg 106)

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TBT: I was fifteen by then (pg 95) Queen: for fifteen years then (pg394)

TBT: I said was about twenty miles from home (pg 65) Queen: over twenty miles away (pg 443)

TBT: I said be drinking out of the same bottle and got high like two brothers (pg 159) Queen said they could get drunk just the two of them (pg 236)

TBT: I sat under a big oak tree (pg 113) Queen sat under a big oak tree (pg 643)

TBT: I said something was wrong with Joyce. We had a beautiful and wonderful gift from God (pg 208) Queens Simon was a gift from God (pg 645)

TBT: He slips you that extra fifty dollars (pg 43) Queen: then he took fifty dollars from his pocket (pg 652)

TBT: I had gone into town for a nickles worth (pg 51 Queen; Y'comin on lady? he called, only a nickle (pg 615)

TBT: I said baby's father's father was white (pg 11) Queen said my pappy was white, and his pappy afore him (pg 625)

TBT: My mother called me a gifted child (pg 77) Queen her reputation for being gifted (pg 129)

TBT: I made Hats (pg 294) Queen: Letitia Mother owned a hat shop (pg 385)

TBT: I knew where my bread and butter came from (pg 76) Queen: Jass massa was his bread & Butter (pg 408)

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TBT: I was floating on a cloud (pg 215) Queen was floating on a cloud (pg 524)

TBT: I had Eleven Children 10 of whom is still living (pg intro) Queen: James was Eleven of Twelve Children (Pg 12)

TBT: I roasted sweet potatoes, corn white potatoes (pg 16) Queen: roasted capons with new potatoes, and sweet potatoes (pg 471)

TBT: I came from a second marriage (pg 310) Queen: Elaine came from a second marriage (pg 385)

TBT: My husband laid in bed with back pain (pg 190) Queen: Capnt Jack in bed with back pain (pg 172)

TBT: My grandmother heard in the fields singing spirituals (pg 115) Queen: Tiara began to sing a spiritual (pg 318)

TBT: those half dead flowers will come to life again.(pg 162) Queen: still fiddling with dead flowers in the hall (pg 203)

TBT: I was doing three things at once. (pg 222) Queen: doing three things at once. (pg 96)

TBT: My grandfather on my mothers side was full blooded cherokee indian (pg 12) Queen: Mammy had been born to an african mother and a cherokee father, back in the old days when some massas had indians as slaves (pg 127)

Page 12 Of The Bold Truth Reads in quote: "Gladys was not a bad looking girl herself. She got her looks from our grandfather on my mothers side of the family. He was a full blooded Cherokee Indian. Glady's had reddish brown, pecan tan complextion. She had long jet black hair. She had big legs and was medium built. She was a good looking girl. If you looked at her from a distance

or even up close, you could see that she wasn't 100% black. Therefore, the baby was part white, Indian, and Black."

Page 115 I quote: "When we heard about the days of slavery, when my mothers mother was a girl in the 1800"s, we were glad that we were not born in those days."

Page IX I quote: "There was injustice done to the Blacks in the South, There is no doubt in my mind about that, but what I stress in this book is that out of all the Jim Crow, hate, prejudice, KKK, and Lynching. I have read of them but never have witnessed them with my own eyes."

TBT: I saw ants crawling (pg 2440 Queen: saw the ants crawling (pg 470)

TBT: I said they would break many good dishes (pg 98) Queen: Parson Dick broke good dishes were they landed (pg 443)

TBT: I was given bacon & meal (pg 79) Queen: was given small slabs of bacon and meal (pg 17)

TBT: We would go to St. Augustine two or three times a week to sell fresh spickled butter beans. (pg 109) Queen: Minnie had come to visit Queen that afternoon as she did two or three times a week to bring preserves. (pg 657) TBT: My James died of Pneumonia (pg 5) Queen: Chile died of pneumonia (pg 347)

TBT: I quote: Tried to mess with a black man who worked for another powerful white (146) Queen quotes: Jus Coz they white how come they had that power (pg 547)

TBT: there was a shortage of Americans workers on farms because of the war so the government but Bahamians under contract. (pg 150) Queen: Her own small contribution to reconstrution, and

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infinety more successful than that directed by the federal government (pg 546)

TBT: Hell, hackling us to keep fear and treat us like dogs and many times they treat the dogs better than us.(pg 99) Queen: He was good to me capn't Jack was forced to admit. Like his pet dog, or his best stallion but he never treated us like human. (pg 84)

TBT: There's a big difference in the South from the North. If you live in the North and are not independent, you will become that way. In the North you are your own. In the South, if you've got a good white friend, you've got something. (pg 32)Queen: the nigras had never been seriously considered by the founding fathers, their rush to white independence, the Northerns because they had so few of them, the South because they had no problem (pg 458)

TBT: she did not swallow his hook and it tickled me because she was on to him. She had heard this jive, he fed, before (pg 188) Queen; She had risen to the bait. Now she had to be hooked. he nodded a greeting to her, but she didn't respond. (pg 615)

TBT: When my sister would keep her boss lady's children, she sometimes had a baby of her own about the same age. So when Mrs. B. went shopping and stayed to long, the baby would get hungry. So what do you thing my sister did? Why, she nursed that white baby from her black breast until the baby was full. When Mrs. B. came back, she did not know the difference. The white baby sucked that black woman's breast and the people around didn't think anything about it.(pg 40) Queen: Mrs. Benson stranded in the middle of nowhere with an eight month old baby to feed. The suituation was so desperate that Mrs. Benson, thought she might have to desert her husband. She'd come to this cafe to be alone while her husband met with some associates, and this white creature had come in with an unweaned, nigra child, and was

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looking for a job. William (white Baby) was completely satisfied with the new arrangements, and snuggled happily to Queen's breast before they resumed their journey. Abner wasn't jealous either, Mrs. Benson was pleased. Michah was friendly to Queen, and Mrs. Benson ignored her. (pg 585)

TBT: It did help to build a nest egg towards making our dreams come true. (pg 212) Queen: and slowly but surely that nest egg was dimenishing. (pg 466)

TBT:I also had the added problem of keeping the baby's milk from souring. (pg 214) Queen: I have a wet nurse the woman continued but she's uppisty, and her milks a little sour.

TBT: Most of all we want to be together. Aways in love, no matter how far apart we are. On each of our birthdays and on most holidays, we exchange gifts and cards.(pg 281) Queen: Queen adored Jass. he was always kind to her, and gave her little presents at Christmas and on her birthdays. She loved him so much. (pg 373)

Z. Substantial Copying, is it not true this means showing events in one way or another is used throughout the Novel, not necessary word for word, or paraphrasing or even direct passages, but by dissemiation. I ask you to view it this way, using page 81 & page 635 from Queen I can show you how they created this page using several pages from my manuscript The Bold Truth, by copyright law I am protected from dissemiation: they read:

page 81:

There is nine names used in different parts of TBT, John, James, Mary, Anna, Mary Ann, Robert, Ellen, Jimmy, Alfred (pg 37-44-5-1-226-246-43-etc.) these same nine names appear in

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Queen pg 81, in TBT we had a potatoe farm in Queen a cotton plantation farm, both were a successful business both had two farms and both worked 40 people. (TBTpg-230-231-232, Queen pg 81) in TBT James owns a race horse, in Queen John owns a race horse, they both race (TBT pg 240, Queen pg 81) in TBT my 1962 Ford was a Country Squire, in Queen James was a Country Squire (TBT pg 225, Queen pg 81) in TBT I peddled by the old slaves market I saw it, in Queen James never saw or went to the slaves Block auction (TBT pg 105, Queen pg 81) in TBT my family came to visit us and family gathered round, in Queen James said family gathered to him (TBT pg 1-18 Queen pg 81) in TBT we went to North Carolina after my baby leonard Jr. died later I had second husband, in Queen James sister later she died, and Eleanor came to Ireland with a second husband (TBT pg 109, 191,310, Queen-pg 81) in TBT I was in room with two girls these two neighbor girls came to my door in N.Y., in Queen two girls came with them from Ireland (TBT pg 206, Queen pg 81) in TBT our first stop was North Carolina. Four of my bigger children for work, in Queen then came Jimmy with their four kids, in TBT I Emma knew I was expecting our ninth child, I gave birth to a girl baby arriving in Amittyville, in Queen James sister arriving in Nashville when she arrived she gave birth to a baby girl (TBT pg 190-191, Queen pg 81)

Page 635:

In TBT I was taken out of school to work in the bean field, in Queen Freeland said I be old enuff to work on the farm (TBT pg 4, Queen 635) In TBT I liked school, in Queen Freeland hated school (TBT pg 4, Queen pg 635) in TBT I said he just Chuckled, in Queen it said chuckled just (TBT pg 80, Queen pg 635) in TBT I say well water was easy to take a bath in lather soap, Queen says talk to him hes taking bath in soapy water, (TBT pg 29, Queen 635) in TBT we played games many games in backwood, we play games in school, ball games, in Queen, suggested he play a game

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with school, freeland said he liked games (TBT pg 27-13-87, Queen pg 635) in TBT Mary was smart easy to learn in school, I went to sixth grade and dropped out, in Queen boys went to school because they had to, up to fifth grade, least six grade. (TBT pg 86, Queen 635) in TBT I wanted my kids to go to school, in Queen she wanted Abner to have a good education, (TBT pg 86, Queen pg 635), in TBT I remember my mother taught me much more, in Queen remembers how Capn't Jack taught her, and regretted she had not learn more. (TBT pg 8, Queen pg 635)

AA. 61 scenes along with a video tape was sent to the Honorable Judge, in part the scenes are:

Queen Opening Scene 1:

Shows white and blacks together, at water hole, horses shows white men striping removing their big guns, on a hot day, women hollering confused, Jass shows concern after they shot the gun at them in the water. (also notice the car as it pulls up in the background)

The Bold Truth:

Page 60 line 16 & 17 We jumped in the car and rushed the short distance to the rock pit. Line 19 & 20 The state Troopers jumped out of their car pulled off their guns and clothes. pg 61 line 1 With all the hollering crying and confusion Line 22-23 then they called for the hearse to take him to the hospital. line 11 & 12 When I really saw a white man show more than just a little concern for the life of a black person.

Queen scene 3:

White and Blacks together in open, Easter drops shaw white woman gets angry, Jass takes up for Slave Easter. White woman calls Jass a Nigger lover.

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The Bold Truth:

pg 34 line 1 & 2 -Some whites called other whites Nigger if he was good to a black man in the open.

Queen: Scene 6:

White man dies with people around him he reaches out to join hand in hand with captin Jack (black man) while still holding hands white man dies.

The Bold Truth:

pg 135 Line 14- He died with them around him pg 54 line 7 & 8- I saw the whites and the Blacks joining hand in hand.

Queen Scene 7:

Easter and Jass show how they endulged each other with a moment of passion (having sex) Easter becomes pregnant

The Bold Truth:

pg 11 Line 20 & 21- They endulged with each other in a moment of passion. She becomes pregnant.

Queen Scene 15:

Queen combs white girls hair, take a note of the face expression here, white girl shows it hurts wants Queen to stop, Queen then pulls from under the bed a pallet for her to sleep on.

The Bold Truth:

Pg 23 line 10 & 11- Mattie lee was a shade lighter than I was her hair was longer and she wasn't as tender headed. pg 7 line 3 & 14 and put straw under it to make a pallet for my sister and me to sleep on.

Queen scene 17:

Shows black woman washing clothes in a great big wash pot

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The Bold Truth:

Pg 21 line 16- we had a great big wash pot.

Queen scene 19:

Shows Mrs. Sally giving a good talk to a group of Blacks then gave prayer.

The Bold Truth:

pg 297 11 & 12- I would call everybody for a short prayer and a good talk.

Queen scene 26:

Good dishes falling out of the cabinets breaking, Black man starts to throw and break the good dishes himself.

The Bold Truth:

Pg 98 line 14- They would break many good dishes

Queen scene 60:

Boy sitting at kitchen table in the middle of the shack with kerosene lamp on kitchen table, black man speaks of sending boy back to school, offers him $50.00

The Bold Truth:

Pg 199 line 9, 10, 11- There was a partition in the middle of the shack from end to end, and the kitchen table was put by this partition. pg 198 line 9-we had to keroene lamps pg 278 line 32 you must keep them in school pg 43 line 13, then he slips you that extra fifty dollars.

Queen scene 61:

boy repairing expensive fishnet

The Bold Truth:

pg 11 line 21- My husband was the owner of the fishnet, line 22- the fish net was a very expensive one.

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BB. Queen Part One As Broadcast: which consist of three parts- here is one page of the Broadcast: please note it does not contain any scenes.

Queen
part one
act one

Prologue

Narrator:
(vo) Alex Haley told the story of seven generations of his mother's family in "Roots." "Queen" completes the family saga with the story of his father's family. This is that story exactly as Alex Haley wanted it told. And it is to his memory that this miniseries is dedicated.

Main Titles
Ext. Pond - Day

Wesly: Howdy there. We want to swim.

Easter: We do the wash, sir. There's soap in the water.

Wesly: Don't bother me none. I could use a bath. you hear me?! Out of there! Get them out of there.

Easter: Mary! Jess! Come on.

Wesley: They need a little encouragement.

Easter: They scared, sir. They can't move.

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CC: The set forms that was sent to me to prove my case per the lower court consist of this: Identification of what is on each page in quote:

a. Page 1

(total of six pages - each page includes 95-2414-CIV-MORENO)Lifting of Passages Claim - Book (same for TV and for audio Cassette tapes)

The Bold Truth
Page # Paragraph # Line # Line #
passage copied :

Queen
Page # Paragraph #
passage:

b. Page 2

Queen

The Bold Truth

Characters
(include page #s
where characters
appear)

Dialogue

(include page #
where dialogue
appears)

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c. Page 3

The Bold Truth

Queen

Mood/Pace

Setting &
Sequence of
Events

(include page #'s)

d. Page 4

SUBSTANTIAL SIMILARITY CLAIM- AUDIO CASSETTE TAPES (this same set form was used for the Book and for the Television)

The Bold Truth

Queen

Plot

Theme

e. Page 5

The Bold Truth

Queen

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Other Similarities

(include page #'s)

DD: Cover of Alex Haley's Queen in stereo, by Simon & Schuster (inside is four audio cassette tapes) verbatim reads:

Alex Haley's QUEEN
Alex Haley and David Stevens read by Lonette McKee
THE EPIC SAGE OF AN AMERICAN FAMILY

In the groudbreaking bestseller Roots, the late Alex Haley spun the history of his mother's family into a landmark cultural event, inspiring the most-watched miniseries in television history. Now, in the triumphant tradition of Roots, comes the saga of his father's family: ALEX HALEY"S Queen, also the basis for a top-rated miniseries.

Once again, Haley offers a sweeping personal saga played out against the broad canvas of American history, beginning with his white, Irish great-great grandfather, who establishes the grand forks of Cypress plantation just as gental, well-ordered antebellum Southern world begins to crumble-and as Jass's attraction to Easter, a beautiful , strong-willed slave, blossoms into a passionate union that produces a daughter. Haley's grandmother, Queen, who embodies the divisive forces that brought a country to war even as she struggles to get by in a profoundly changed world. For the Irish sod to the settlement of the South, from the agonies of slavery to the tribulations of freedom this is history at its most compelling-a truly multicultural family epic the capstone to one of the great, classic American stories. (etc.)

EE. Cover from Alex Haley and David Steven's Queen Book published by William Morrow & Company. in Quote:

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Once in every generation, there is a landmark book that adds a new richness to all our lives for milllions of people of all colors, that book was Alex Haley's Roots. Roots was an instant success, winning a Pulitzer Prize and spawning the most-watched miniiseries in television history. Alex Haley's legacy has had as great an impact on American families as any story in the twentieth century.

Now, from the author of Roots, comes Alex Haley's Queen -the saga of his father's family.

Lovers of sweeping generational epics will find much to rejoice in here. Once again, this is a personal saga, but one played out against the broad canvas of American history. The story begins in Ireland, where Haley's white great-great-grandfather, James Jackson, Sr., is born. From there we travel with Jackson to Nashville, where he meets Andrew Jackson, the future president of the United States. The two men become business partners, and James Jackson makes his fortune. He establishes his grand plantation, The Forks of Cypress, in Alabama, while Andrew ascends to the White House, and the rumblings that will explode into the Civil War gather force.

James's son Jass Jackson inherits the plantation just as the genteel, well-ordered antebellum world begins to crumble. His adolescent attraction to the beautiful and strong-willed slave named Easter blossoms into a powerful and lasting love, and from their passionate union comes Queen-the heroine of the tale, Alex Haley's grandmother.

This is history at its most compelling-from the Irish sod to the settlement of the South: from the Trail of Tears to the battlefield at Manassass: from the agonies of slavery to the tribulations of freedom-all rendered with the eye for telling detail and the sense of historical significance that readers have come to expect of

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Haley. In this, his final book, Alex Haley has created (continued on back flap) a truly multicultural family saga, the capstone to one of the great, classic American stories.

The Television miniseries of Alex Haley's Queen electrified and engrossed a nation. But that was only part of the picture: here now is the whole story, fleshed out in all its vivid detail and human drama-the journey of an American family as only Alex Haley could tell it.

Alex Haley is the author of the Pulitzer Prize-winning masterpeice Roots. he also collaborated with Malcolm X on the Autobiography of Malcolm X. He died in February 1992.

David Stevens worked closely with Alex Haley on both book and screenplay for Alex Haley's Queen. Among his other works, he co-authored the screenplay of Breaker Morant and wrote and directed the PBS miniseries A Town called Alice. His play The Sum of Us ran off Broadway in New York.

Jacket design by Rohter Aulicino Back Jacket photograph by Jim Britt/Archive Photos

William Morrow & Company, Inc.
1350 Avenue of the Americas
New York, N.Y. 10019

Printed in the U.S.A

FF. March 24, 1998 Plaintiff sent to the United States Court of Appeals Motion to file 5 pages from Showing Access to be included in Response to Answers which quotes:

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March 24, 1998

United States Court Of Appeals
Eleventh Circuit
District Court Clerk
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

Case No. RE: 97-4511

Motion to File
5 Pages from Showing Acess to be included in "Response to Answers"

I ask you the Court to grant only 5 pages of the approx- 100 sent currently Showing Access...Clearly. Reason is I received your letter dening filing of "Showing Access....Clearly" because The Appeals court does not accept new evidence. I do apologize for this mistake, but the 5 pages I ask you now to grant is filed in court. I misunderstood I was to use only what is filed with the Courts When preparing my Response to Answers to the defendants, William Morrow & Co. Inc. , CBS Inc., and Simmon & Schuster Inc., In the Answers received from the defendants pg 41, and 42 etc., they question the access, I was unaware the length of my return Response to Answers was to be only 25 pages long. So I filed the briefs plus a reference guide proving access to the fullest for you the Courts as well as for the defendants attorney Mr. Bohrer. In doing so I used interrogatories of the previous case, including Alex Haleys to show in detail how and when the access was taken and used, along with this included a step by step action plan of how it was done. (I filed Alex Haleys, but using the others helped provide clear access of how and when it was taken, and used, unaware I could not bring forward for you to view without proper filing.). When reading the Answers received from the defendants, I noticed the word Prior (page 4 etc.) until now I

didn't even know what this word meant, so I looked it up in the dictionary, (it simply means --Before). Then I went through everything I filed with the courts, and again I seen Prior, that is why I did what I did, the access was taken between the time of 1973 and 1976 as I mentioned before, but the letter dated 1979 is proof Mr. Haley did hear of me, Emma Paul, The Bold Truth and my claim before his interrogatories in 1986- I now ask the courts to accept these 5 pages for reasons-I didn't know the word Prior meant before. Now I ask you the court to view and hopefully Grant these 5 pages attached to be included with my briefings "Response to Answers" explaining that Alex Haley did hear of me Prior to his interrogatories, giving you the court and the defendants more than just bare possibility of Access.

See Below for view.

1. The first and last page to Alex Haleys Interrogatories (total 2 pgs) filed on exhibit.
2. Letter dated August 30, 1979 to Alex Haley from Attorney Kenneth Henson (Total of 2 pges) filed on exhibit
3. One page from the village voice explaining Murray Fisher.. Dkt 69 and filed on another exhibit.

I ask you the Court to please grant this motion and list these 5 pages as part of my response to Answers to the Defendants which are already on file with the courts. I again apologize for the hugh error I have caused, I hope this has not caused you any inconvenience, for your time in this matter is greatly appreciated. I also ask that the attorney Sanford Bohrer for the defendants return the unfiled "Showing the Access ...Clearly" uncopied back to myself.

Sincerely,

Appendix F

s/ Emma Lee Paul,
1540 N.W. 203 St.
Miami, Florida, 33169
Phone # 1-305-653-4221

cc:
Sanford L. Bohrer
Holland & Knight LLP
701 Brickell Avenue,
Suite 3000
Miami, Florida 33131 (March 25, 1998)

GG. Quotes from the pages of Defendants answers; in part reads

IN THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

No. 97-4511

EMMA LEE PAUL,

Plaintiff/Appellant,

vs.

WILLIAM MORROW and COMPANY, INC.,
CBS INC. and SIMMON & Schuster, INC.

Defendants/Appellees.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA

Appendix F

ANSWER BRIEF OF DEFENDANTS/APPELLEES
WILLIAM MORROW AND COMPANY, INC.,
CBS INC. and SIMON & SCHUSTER, INC.

SANFORD L. BOHRER
JUDITH M. MERCIER
Holland & Knight LLP
701 Brickell Avenue, Suite 3000
Miami, Florida 33131
(303) 374-8500

Attorneys for
Defendants/Appellees
Willliam Morrow & Company, Inc.,
CBS Inc. and Simon & Schuster, Inc.

STATEMENT OF THE CASE

A. Nature of the Case and Course of Proceedings

This is an appeal from an order granting defendant's motion for summary judgment and a final judgment in a copyright infringment suit filed by Emma Lee Paul on November 1, 1995. R1-1. Ms. Paul, representing herself since the withdrawl of her attorney after the filing of the complaint, claims William Morrow and Company's book, Alex Haley's Queen (the "Book"), CBS's Broadcast of the mini-series of the same name (the "Broadcast"), and Simon & Schuster's audio version of the Book (the "Audiotapes") infringed on Ms. Paul's copyright of her unpublished manuscript entitled The Bold Truth. R1-1. Defendants answered the complaint on January 5, 1996. R1-12. The district court held a status hearing on October 10, 1996, and

on October 18, 1996 issued and order requiring Ms. Paul to file documents showing what proof she had of her copyright infringement claim. R2-41. On forms provided by the Court, Ms. Paul provided the Court and Defendants with all of her proof concerning Defendant's alleged infringement. R2-43; R2-44; R2-45. On October 18, 1996, copies of a transcript of the Broadcast, the book, and a transcript of the Audiotape were filed with the Court. R2-40. On Decemeber 27, 1996, Defendants filed their motion for summary judgment. R3-48. On February 25, 1997 the district court granted Defendants' motion for summary judgment and entered final judgment dismissing the complaint with prejudice. R3-58. This appeal followed.

B. Statement of the Facts

Emma Lee Paul authored an autobiographical manuscript entitled The Bold Truth prior to April 1, 1976 and secured a Certificate of Registration of this work from the United States Copyright Office dated April 1, 1976 and bearing registration Number A731165. R1-1-2 /9. In February, 1993, CBS first Broadcast, which traces the story of Alex Haley's paternal family from slavery to the birth of Alex Haley's father in the late nineteenth century., R1-1-2-3, /13. Later in 1993, Morrow published the Book, which also traces the story of Haley's paternal family, but begins in Ireland in the 18th Century. R-40. Finally, also in 1993 Simon & Schuster published the Audiotapes. R.-40.

Independant Creation of Alex Haley's Queen

David Stevens wrote the entire teleplay of the Broadcast, completing it on or about the middle of 1992, without ever having possessed or read The Bold Truth. R3-51, // 2,4. After writing the teleplay of the broadcast, Stevens wrote the Book, also without ever having possessed or read The Bold Truth. R3-51, // 2,4. To this day, Mr. Stevens has never seen , possessed or read The Bold

Truth and , in fact, knows of that work only by virtue of the allegations made by Ms. Paul in her complaint. R3-51 / 2.

Mr. Stevens wrote the teleplay after discussing Alex Haley's familial lineage at length with Mr. Haley and after consulting various reference works--among them A People's history by Page smith, Reconstruction by Eric Foner, Fathers and Children by Michael Paul Rogin, The Border Caption by Marquis James and the diaries of Mary Chestnut. R3-51, // 5,6. In writing Alex Haley's Queen Mr. Stevens also consulted voluminous written material given to him by Alex Haley concerning the genealogy of Mr. Haley's paternal family as well as historical research concerning life in 19th century Philadelphia and the American South. R3-51, / 5. Finally, in writing the Broadcast, Mr. Stevens traveled to Alabama to visit Mr. Haley's white relatives, the descendants of the owner of Mr. Haley's enslaved grandmother. R3-51, / 5.

Ms Paul filed with the district court interrogatory answers from another lawsuit (which involved now deceased Alex Haley as a defendant), and these sworn interrogatory answers indicate that Mr. Haley, like Mr. Stevens, never read or saw The Bold Truth. R3-50 (Exhibit 2). There is no evidence in the record indicating Mr. Stevens, Morrow, CBS, or Simon & Schuster, prior to this lawsuit, had access to The Bold Truth, which has never been published or publicly sold or distributed.

ANALYSIS

The paces of the two works at issue differ greatly. Twice the length of Ms. Pauls work, Alex Haley's Queen nevertheless moves more quickly and dramatically, at least in part because the Book and Audiotapes were based on the six-hour Broadcast and written by the same person. The Bold Truth, on the other hand, is a light 311 page manuscript which contains virtually no drama, suspense

or excitement. The Bold Truth therefore moves much more slowly than the Book. Moreover, The Bold Truth is rater loosely structured and involves descriptions of mundane aspects of Ms.Pauls life and experiences. Alex Haley's Queen is anything but mundane. There is substantially less conflict in The Bold Truth than Alex Haley's Queen, and the Book, Broadcast and Audiotapes virtually revolve around tragedy and violence.

The Record Establilshes That Morrow, CBS and Simon & Schuster had no Access to Ms. Paul's Work

The record includes a declaration by David Stevens attesting to the fact that he, the author of Defendants' work had no access to Ms. Paul or her book when Stevens wrote what he did. R2-51. The record also includes copies of interrogatory answers that Ms. Paul herself provided to the district court in which Mr. Haley denied having such access. R1-33-Answers to Plaintiffs Interrogatories to Alex Haley. There is no other evidence relating to Defendants access. Specifically, there is none indicating any Defendant had any access to Ms. Paul or her book prior to this lawsuit.

Access is proven by showing the defendant "viewed Plaintiff's copyrighted work or had a reasonable opportunity" to do so.... Plaintiff must show more than a bare possiblility of access; at a minimum there must be a reasonable possiblity of access." Evans V. Berrie, 681 F.supp. 813, 816 (S.D. Fla. 198), citing Ferguson v. National Broadcasing Co, Inc. 584 F.2d 111 (5th Cir. 1978). As the Fifth Circuit held in Ferguson, "mere speculation or conjecture" is insufficient to prove access. Id. 584 F. 2d at 113. See also, Towler v. Sayles, 76 F.3d 579, 582 (4th Cir.1996)

In the light of Stevens' unequivocal denial of access and the interrogatory answers of the late Alex Haley filed by Ms. Paul herself, the absence of access is clear. Even on this basis alone, summary judgment was properly entered for Morrow, CBS and

Appendix F

Simon & Schuster. (Evans v. Wallace Berrie , supra; Takeall v. PepsiCo, Inc., supra.)

CONCLUSION

For these reasons, the district court's grant of summary judgment in favor of Morrow, CBS and Simon & Schuster should be affirmed.

HOLLAND & KNIGHT LLP
Attorneys for Appellees
William Morrow, CBS and
Simon & Schuster
701 Brickell Avenue
P.O. Box 015441
Miami, Florida 33101
(305) 374-8500

By: s/ Sanford L. Bohrer
Sanford L. Bohrer (FBN 160643)
Judith M. Mercier (FBN 0032727)

*****Definition of Mundane: 1: of, relating to, or characteristic of the world, 2: characterized by practical, transitory, and ordinary: COMMONPLACE (the concerns of day-to-day life)*****

SUPREME COURT OF THE
UNITED STATES
Clerk of Courts
1 First Street, N.E.
Washington, DC 20543

EMMA LEE PAUL,

CASE #_____

Plaintiff

vs.

WILLIAM MORROW and CO. INC.of New York, New York, CBS, INC., of New York, New York, and SIMON & SCHUSTER, INC., of New York, New York

Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copies (three) of the foregoing was served by U.S. Mail this 13th day of October, 1998 to Sanford L. Bohrer, Esquire, Holland & Knight LLP, 701 Brickell Avenue, Suite 3000, Miami, Florida 33131, Phone number 1 (305)-374-8500 Attorney for the Defendants/Appellees naming Naomi B. Waltman, Esquire, CBS Inc., 51 West 52nd Street, 36th Floor, New York, New York 10019, and , Andrew Kim, Esquire, Warner Brothers, 4000 Warner Boulevard, Bridge Bldg. S., Room 5166, Burbank, California 91522.

Emma Lee Paul

EMMA LEE PAUL
1540 N.W. 203 Street
Miami, Florida 33169
1-(305)-653-4221

Pro-Se Paintiff/Petitioner

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

EMMA LEE PAUL,

Plaintiff,

vs.

WILLIAM MORROW AND COMPANY, INC. of New York; CBS, INC. of New York and SIMON & SCHUSTER, INC. of New York,

Defendants.

_____/

CASE NO. 95-2414-CIV-MORENO
Magistrate Judge Bandstra

NOTICE OF PLAINTIFF'S INTENT TO APPEAR PRO SE

Plaintiff, Emma Lee Paul, hereby gives notice to all parties to this cause of her intent to appear Pro Se in this matter. This is done in compliance with this Court's Order dated March 7, 1996.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by U.S. mail this 11 day of March, 1996 to Sanford L. Bohrer, Esquire, Holland & Knight, 701 Brickell Avenue, P. O. Box 015441, Miami, Florida 33101; Naomi B. Waltman, Esquire, C.B.S. Inc., 51 West 52nd Street, 36th Floor, New York, New York 10019; and, Andrew Kim, Esquire, Warner Brothers, 4000 Warner Boulevard, Bridge Bldg. S., Room 5166, Burbank, California 91522.

Emma Lee Paul

Emma Lee Paul, Pro Se
1540 N.W. 203 Street
Miami, Florida 33169

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Supreme Court, U.S.
FILED
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No. 98-659

In The

Supreme Court of the United States

October Term, 1998

EMMA LEE PAUL,

Petitioner,

vs.

WILLIAM MORROW and COMPANY, INC., CBS INC., and SIMON & SCHUSTER, INC.,

Respondents.

On Petition For Writ Of Certiorari To The United States Court Of Appeals For The Eleventh Circuit

RESPONDENTS' BRIEF IN OPPOSITION

SANFORD L. BOHRER*
Florida Bar No. 160643
JUDITH M. MERCIER
Florida Bar No. 0032727
HOLLAND & KNIGHT LLP
701 Brickell Avenue
Suite 3000
Miami, FL 33131
Tel. (305) 374-8500

Counsel for Respondents

* *Counsel of Record*

COCKLE LAW BRIEF PRINTING CO., (800) 225-6964
OR CALL COLLECT (402) 342-2831

1688

QUESTION PRESENTED

Whether this Court should review the Eleventh Circuit's decision affirming a summary judgment against Petitioner on her copyright claims on a record which showed there was no basis on which a jury could find either (1) actual copying of Petitioner's work or (2) access to Petitioner's work and substantial similarity between Petitioner's work and Respondents' works.

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STATEMENT PURSUANT TO RULE 29.6 OF THE RULES OF THE SUPREME COURT OF THE UNITED STATES

Pursuant to Rule 29.6 of the Rules of the Supreme Court of the United States, Respondents hereby list the following parent companies:

Viacom Inc. is the parent company of Simon & Schuster, Inc.

The Hearst Corporation is the parent company of William Morrow and Company, Inc.

CBS Corporation is the parent company of CBS Inc.

Respondents do not have any nonwholly owned subsidiaries.

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STATEMENT OF THE CASE

A. Nature of the Case and Course of Proceedings

Petitioner Emma Lee Paul ("Ms. Paul") seeks review of the Eleventh Circuit's affirmance of a district court order granting Respondents' motion for summary judgment in Ms. Paul's copyright infringement suit against them. Ms. Paul claimed Respondent William Morrow and Company's book, *Alex Haley's Queen* (the "Book"), Respondent CBS's Broadcast of the mini-series of the same name (the "Broadcast"), and Respondent Simon & Schuster's audio version of the Book (the "Audiotapes") infringed on Ms. Paul's copyright of her unpublished manuscript, *The Bold Truth*. On forms provided by the district court, Ms. Paul provided the court and Respondents with all of her proof concerning Respondents' alleged infringement. (Pet., p. 44a). The district court granted Respondents' motion for summary judgment and entered final judgment dismissing the complaint with prejudice. (Petition for Writ of Certiorari ("Pet.") at 43a-46a). Ms. Paul did not present any evidence indicating there was direct copying of her work by Respondents. The district court held (1) there was no showing Respondents had access to Petitioner's work, and (2) no showing of substantial similarity between Petitioner's work and Respondents' works. The Eleventh Circuit affirmed, holding (1) Ms. Paul was no longer even contending Respondents had directly copied portions of *The Bold Truth*, and (2) Ms. Paul could not meet the "two-part test for indirect copying. She fails to meet that test because the record does not permit the inference that the defendants had access to her work. All the record establishes is that Ms.

Paul submitted her manuscript to Doubleday, it does not establish – either through direct or circumstantial evidence – that Doubleday passed the manuscript on to Haley, and that he, in turn, passed it on to the defendants." (Pet. at 6a).

B. Statement of the Facts

Emma Lee Paul authored an autobiographical manuscript entitled *The Bold Truth* prior to April 1, 1976 and secured a Certificate of Registration of this work. The Broadcast, the Book, and the Audiotape of *Alex Haley's Queen* trace the story of Alex Haley's paternal family from slavery to the birth of Alex Haley's father in the late nineteenth century.

David Stevens wrote the entire teleplay of the Broadcast, completing it on or about the middle of 1992, without ever having possessed or read *The Bold Truth*. (Pet. at 31a-33a). After writing the teleplay of the Broadcast, Stevens wrote the Book, also without ever having possessed or read *The Bold Truth*. *Id*. Mr. Stevens never saw, possessed or read *The Bold Truth* and, in fact, knows of that work only by virtue of the allegations made by Ms. Paul in her complaint. *Id*. The Audiotape is an audiotape of the Book.

Ms. Paul filed with the district court interrogatory answers from another lawsuit (Alex Haley, who died prior to the commencement of this lawsuit, was a defendant), and these sworn interrogatory answers indicate that Mr. Haley, like Mr. Stevens, never read or saw *The Bold Truth*. (Pet. at 45a, 67a). There is no evidence in the record indicating Mr. Stevens, Morrow, CBS, or Simon & Schuster, prior to this lawsuit, had access to *The Bold*

Truth, which has never been published or publicly sold or distributed. (Pet. at 45a, 6a.)

None of the four works at issue is before the Court, but the district court summarized the works as follows:

> The works at issue recount the experiences of black Americans growing up in the American South, especially their relationships with white Americans. As such, the Bold Truth and the Defendants works use many of the same phrases, words, and colloquial expressions commonly used by Southern white and black Americans during the time period represented. But the similarities between The Bold Truth and the defendants works ends with the general Southern back drop. The plot, themes, sequence of events, and mood of the works are markedly different. Briefly, Alex Haley's Queen is a dark, pessimistic account of the racism suffered by a light-complected black woman. It is an historical and metaphorical depiction of several generations of black American slaves, former slaves, and their descendants. The protagonists experience with white Americans is one of slavery, rape, murder, violence, and mistreatment. The Bold Truth, on the other, is an anecdotal autobiography of the Plaintiff's life from the 1930's to the 1970's. An optimistic, uplifting story, it recounts the positive relationships the author, a dark-complected black woman, has had with the white Americans she has come into contact with during her life. In contrast to Alex Haley's Queen, it is not marked by conflict or tragedy. In short, the two works bear little resemblance, and there is no basis for finding that the two works are substantially similar.

(Pet. at 44a-45a).

ARGUMENT

A. Certiorari Should Be Denied Where, As Here, Review Is Sought Of A Court Of Appeals' Decision Which Turns Solely On An Analysis Of The Particular Facts Of This Case, And The Court Of Appeals' Analysis Agrees With The District Court's.

Ms. Paul does not seek review because the Eleventh Circuit applied the wrong law or misapplied the law. Ms. Paul seeks review because she believes the Eleventh Circuit, like the district court before it, misconstrued the facts in the record. Certiorari is particularly inappropriate in such a case. "We do not grant a certiorari to review evidence and discuss specific facts." *United States v. Johnston*, 268 U.S. 220, 227 (1925). At best, Ms. Paul asserts a factual dispute – she disagrees with what the two lower courts found to be the undisputed facts in the record. This Court is a court of law, not a court for the review and correction of misapprehension of facts by district courts and circuit courts. Review is especially inappropriate where, as here, the determination of the undisputed facts by the district court was concurred in by the Eleventh Circuit. As this Court noted in an analogous situation, this Court "cannot undertake to review concurrent findings of fact by two courts below in the absence of a very obvious and exceptional show of error." *Graver Mfg. Co. v. Linde Co.*, 336 U.S. 271, 275 (1949).

B. The Eleventh Circuit Did Not Err In Affirming The District Court's Entry Of Summary Judgment Where There Was No Evidence Sufficient For A Jury To Find Access By Respondents To Petitioner's Work.

A claim for copyright infringement requires proof by the plaintiff of ownership of the copyright in a particular work, and the copying of a substantial, legally protectable portion of that work, and where it is shown that a plaintiff cannot present such evidence, summary judgment is appropriate. *Beal v. Paramount Pictures Corp.*, 20 F.3d 454, 459 (11th Cir. 1994) ("To establish copyright infringement, two elements must be proven: ownership of a valid copyright, and copying of constituent elements of the work that are original."). Because plaintiffs can rarely adduce direct evidence of copying, courts have developed a two-pronged, circumstantial test to determine whether copying of a plaintiff's work has taken place. In this circuit, once it is established that there has been no direct copying, "plaintiff is first required to show that defendant had access to the plaintiff's work. . . . " *Beal, supra*, 20 F.3d at 459; *see Mitek Holdings, Inc. v. ARCE Engineering Co.*, 89 F.3d 1548 (11th Cir. 1996). "[S]econd, the plaintiff must show that the defendant's work is substantially similar to the plaintiff's protected expression." *Beal*, 20 F.3d at 459. *Howard v. Sterchi*, 974 F.2d 1272 (11th Cir. 1992). The Eleventh Circuit did not reach the second issue, substantial similarity, because it found the record to be clear, as did the district court, that Ms. Paul had wholly failed to present evidence from which a jury could conclude Respondents had access to Ms. Paul's work.

The record includes a declaration by David Stevens attesting to the fact that he, the author of Respondents' works, had no access to Ms. Paul or her book when Stevens wrote what he did. Mr. Stevens was not deposed, and no evidence was presented contradicting his testimony. The record also includes copies of interrogatory answers that Ms. Paul herself provided to the district court in which Mr. Haley denied having such access. There was no other evidence relating to Respondents' access. The record is clear. No Respondent had any access to Ms. Paul or her work prior to the filing of this lawsuit.

C. There Was No Evidence Of Substantial Similarity Of Protectable Expression Between Defendants' Works And *The Bold Truth*.

Although the Eleventh Circuit did not reach the issue of substantial similarity, it is apparent even from Ms. Paul's petition that "no reasonable jury upon proper instruction would find that the two works are substantially similar." *Beal, supra,* 20 F.3d at 459. In addressing this issue, the Courts generally use what is called an "extrinsic" test, which involves a comparison of specific, objective criteria of two works – some combination of plot, theme, dialogue, mood, setting, pace, characters and sequence of events. *See, e.g., Beal, supra,* 20 F.3d at 460. Applying this test, it is clear there is no substantial similarity.

a. Plot and Theme

(1) *The Bold Truth*

Ms. Paul's book is an autobiography of a 20th century African-American woman whose experience with white Americans in the South is uniformly positive. The central focus of *The Bold Truth* is the goodness of most white Southerners with whom Ms. Paul and her family interacted while she was growing up. Ms. Paul uses her and her family's struggle to make a living from various occupations – ranging from farm work, to hourly labor to door-to-door peddling of fruits and vegetables – as a back drop for stories concerning good, white Southerners. "So this book is about the good white folks I have come in contact with in my lifetime." One of the only acknowledgments of racism toward Ms. Paul in *The Bold Truth* concerns Ms. Paul's view of white **Northerners** *after* she and her family moved to the North.

Ms. Paul also repeatedly states in her book that she never personally witnessed the kind of prejudice associated with Jim Crow laws, the Ku Klux Klan, and violence against African-Americans that was commonplace in the south while she was growing up there, and that her contact with white Southerners was almost uniformly positive.

(2) *Alex Haley's Queen*

The central theme in *Alex Haley's Queen* involves the inequities of a young, African-American woman's life during and shortly after slavery. In contrast to Ms. Paul's upbeat, optimistic view of relations between whites and

blacks (itself totally at odds with all historical reports), reading or listening to *Alex Haley's Queen* leaves one concluding that racism against former slaves is a ubiquitous, if not the only theme of the Book, the Broadcast and the Audiotapes.

b. Setting and Sequence Of Events

(1) *The Bold Truth*

The sequence of events for *The Bold Truth*, with minor exceptions, is that of an anecdotal chronological autobiography of Ms. Paul's life from the 1930's to the 1970's. Excluding events in the north, the setting is a southern United States unrecorded by any historical account or treatise, a south in which no African-Americans are mistreated by white Americans.

(2) *Alex Haley's Queen*

The sequence of events for *Alex Haley's Queen*, is an historical account of the treatment of African-American women during and immediately after the abolition of slavery. It ends before Ms. Paul's book begins. And the events in the Book, Broadcast and Audiotapes are portrayed as historical and metaphorical, not simply the events in the life of one person. The setting, aside from the first third of the Book and the beginning of the Audiotapes, which take place in Ireland and the northern United States, is a south wholly different from the fairy-tale south described in Ms. Paul's book. Queen's experience with whites in the south was one of slavery, rape, murder, violence, oppression, and mistreatment, in stark

contrast to Ms. Paul's experience, which was one of freedom, fairness, and friendship.

c. Mood

(1) *The Bold Truth*

The Bold Truth is optimistic in mood, not only concerning relations among the races but in terms of the economic struggle of the impoverished. *The Bold Truth* denies the existence in Ms. Paul's life of racism by white Southerners and even suggests Ms. Paul's family survived at times because of gratuitous help given to her family by various white Southerners. *The Bold Truth* almost from beginning to end is a success story, by which Ms. Paul attempts to dispel misconceptions about racism and the plight of African-Americans in the American south of the early and mid-twentieth century.

(2) *Alex Haley's Queen*

The mood of *Alex Haley's Queen* is predominantly pessimistic. Throughout the Book, Broadcast and Audiotapes, Queen struggles with problems flowing from her race and the prejudices of white Southerners. Queen even encounters racism among other African-Americans based on her light complexion. The prejudice, violence, and hatred which dominate Queen's life create a dark, serious mood. Even at the end of the Book, when Queen has found love and has raised two boys, Queen is institutionalized for a mental breakdown. Certainly by the last page one is not left hopeless – the last page reports that Queen's son Simon did receive an education and live a

much better economic life than his mother, but the 670 preceding pages reveal a mood that has the author, David Stevens, grieving over the circumstances he describes in the Book he wrote.

d. Characterization

Ms. Paul's evidence of similarity between the characters of the different works was the listing of names common to the Book and her book. The record contains no evidence whatsoever with regard to the Broadcast or Audiotapes. And there simply is no similarity in characterization. With regard to the common names, each is a common English name for a man or a woman, and none of the characters with the common names bears any similarity. The differences in characterization are also pointed up by the differences between the main characters and the treatment of whites generally. The lead characters in both stories are African-American women. However, this is where the similarity between these characters ends. In the Book, Queen is a light-complected daughter of a slave master. In *The Bold Truth,* the protagonist is a dark-complected daughter of an African-American minister. The two lead characters have widely differing outlooks and experiences, especially concerning interactions with white people, and share no common experiences related even to their respective (non-protectable) struggles to survive and raise their families. Finally, there is a stark difference between the works at issue in the treatment of the white characters by the authors. In *Alex Haley's Queen,* the white characters are almost uniformly negatively portrayed. Nearly without exception,

these characters hold overtly racist views and act in discriminatory manners. In *The Bold Truth,* Ms. Paul describes the white characters as generally kind. In fact, Ms. Paul writes of racism only by way of second-hand accounts, contending throughout the work that she never actually witnessed incidents of racism or injustice directed at African-Americans by whites.

e. Dialogue

There is no evidence in the record identifying dialogue which is common to Ms. Paul's work and Respondents', and in any event, the dialogue of the two works differs greatly, in no small part because Ms. Paul's book was written by a person of limited education and Respondents' works were written by a professional writer. Because the works are so drastically different in all respects, the words spoken by the various characters in the two stories also differ. Although required to do so by the district court, Ms. Paul did not point to a single protectable similarity between the dialogues of the works. And there is none.

CONCLUSION

For these reasons, the petition should be denied.

Respectfully submitted,

HOLLAND & KNIGHT LLP
SANFORD L. BOHRER (FBN160643)
JUDITH M. MERCIER (FBN 0032727)
P.O. Box 015441
701 Brickell Avenue
(305) 374-8500

Attorneys for Respondents

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No. 98-659

In The

Supreme Court of the United States

October Term, 1998

EMMA LEE PAUL,

Petitioner

vs.

WILLIAM MORROW and COMPANY, INC., CBS INC., and SIMON & SCHUSTER, INC.,

Respondents

On Petition For Writ Of Certiorari To The United States Court Of Appeals For The Eleventh Circuit

---

REPLY TO BRIEF IN OPPOSITION

Emma Lee Paul,
1540 N.W. 203 St.
Miami, Florida, 33169
Phone (305) 653-4221

Pro-Se Petitioner

14 pp

QUESTIONS PRESENTED

1. Whether you the Supreme Court will review The Eleventh Circuit's decision affirming summary judgment in favor for the defendants when compelling questions are raised in the plantiffs petition for writ of Certiorari showing judicial discretion of the lower court when the Plantiff has on record substantial evidence which proves access by the defendants prior to any lawsuit and shows a basis on which a jury can find 1) Proof of ownership by Plaintiff which consist of a valid copyright. (2) and by showing defendants had access to the Plaintiffs work and the works are substantially similar in protected expressions.

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STATEMENT OF THE CASE

A. Nature of the Case and Course of Proceedings

I the Petitioner seek review of the Eleventh Circuit's affirmance of a district court order granting Respondents' William Morrow and Co. Inc, CBS Inc, and Simon & Schuster Inc., in motion for summary judgment not as a matter of right but of judicial discretion. The Respondents' (pg 1 of breif) quote I provided all my proof concerning infringment on forms provided me by the district court, what they did not say is the forms provided me by the district court contain no form for access, (Petition for writ- 97a-98a-99a) The Respondents' attorney Mr. Bohrer requested the court to make it clear (e.g P/F/W/O/C pg 23a & 24a) to me how and what I was to use when I presented my reponse to the court. The court did as he ask and it was made very clear (e.g.P/F/W/ O/C pg 23a) I was to use only the set forms provided me and nothing else. (e.g. P/F/W/O/C pg 28a) The Plantiff /Petitioner does question the copying of her work in the transcript with the Court and of how close does the copying have to be, how much similarity did the courts need.(e.g. P/F/W/O/C pg 26a). Mr. Bohrer convinced the court I had to prove my case by direct copying not me and the court knew this (e.g. P/F/W/O/C pg 25a). I said my language was used my words could be found within the pages of the works Queen was Emma, and Emma was Queen. Queen, and Queen characters done everything I did in my life (e.g. P/F/W/O/C pg 20a) my litery expressions are protected by copyright law not the sequence, the plot, the mood as the Respondents' insist the Courts use to prove my Case. The District Court voiced his concern and knew if I presented my case the way the Respondents' requested I would loose my case.(e.g P/F/W/O/C 24a) Substantial evidence is on record with the District Court that proves Access by the Defendents which can reverse summary judgment in favor of the Respondents' due to the discretion of the District Court unawareness of this case I the Petitioner ask releif from you the courts to use your power and set this case for review.

B. Statement of the Facts

Plantiff does have a valid Certificate of Registration dated April 1, 1976 and is agreed is on record by the Respondents'. My autobiographical manuscript is all truth, The Broadcast, the Book, and the Audiotapes of Alex Haley and David Stevens Is all fictionalized. The Story of Alex Haley's paternal family to the birth of Alex Haley's father in the late nineteenth century is all made up. Even Andrew Jackson is all made up. (e.g P/F/W/O/C pg 20a and pg 31a)

In reference to 2b of oppo/brief the defendants attorney Mr. Bohrer Mislead the District Courts when he told the Court that Alex Haley did not write any of the works and that Mr. Haley did not provide any written material for the works, (e.g. P/F/W/O/C pg 19a -20a etc.) again you the Supreme court are told that David Stevens wrote the entire teleplay of the broadcast again you are being mislead that Alex Haley did not help. I was forced to use those transcripts of all three works provided to me from the defendants it is impossible for David Stevens to have used those scripts to create Queen on CBS television--those scripts contain no scenes (e.g. P/F/W/O/C pg 96a) and was never checked by the District Court before I was ordered to use them to see if they were proper to prove my case, which they were not. Mr. Bohrer said everything came from the mind of David Stevens, David Stevens said everything came from the mind of Alex Haley, I find it hard that David Stevens knew nothing of The Bold Truth after all Mr. Stevens worked for over two years with Mr. Haley, wrote scenes with Mr. Haley, and was given finished pages and a 700 page outline along with boxes and boxes of research from Alex Haley. And David Stevens Finds it hard to quantify how much was written my Alex and much by he.(e.g. P/F/W/O/C pg 77a thur 80a). In reference to pg 2 b The Audiotape of Queen does not match the Queen Book one example is the fishnet scene in the Audiotape can be found no where in the Queen book or on the

cassette tapes but can be found inside, "The Bold Truth". (e.g P/F/W/O/C pg 93a thru 95a)

I the Plantiff/Petitioner did file with the District Court interrogatory answers that belong to Alex Haley from another lawsuit and yes he is no longer living and Respondents agree on both pg 2b of Opposing brief. Those interrogatory answers along with a letter from my attorney Kenneth Henson addressed to Mr. Haley prior to any lawsuit, a handwritten note on The Bold Truth from Alex Haley etc.(e.g P/F/W/O/C appendix f.) Substantial evidence on record that clearly could prove my case of Access by the defendants was never considered. Instead the District court told me I could not go back to my prior case because it provided a background.(e.g. P/F/W/O/C pg 19a) and the district court told me the Plantiff he was not going to go back and consider any of the filings on record. (e.g P/F/W/O/C pg 29a). When called upon to adjudicate a copyright dispute a court must compare the works in question. *Autoskill, Inc. v. National Educ. Support Sys., Inc., 994 F.2d 1476 (10th Cir),* Because of the discretion involved here the Eleventh Circuit denied my motion to get this substantial evidence viewed, yet the defendants was permitted to use those same interrogatories in defense to win summary judgment. (e.g. P/D/W/O/C pg 4a) I filed this evidence but yet In quote I was told:

"the motion is denied because the materials were not presented to and considered by the district court".

The respondents quote" these sworn interrogatory answers indicate that Mr. Haley, like Mr. Stevens never read or saw The Bold Truth" Because the defendants were permitted to use those interrogatories for their defense I the Plantiff/Petitioner should be able to use them for my defense. There is substantial evidence on the record that indicates Mr. Stevens, Morrow, CBS, and Simon & Schuster, prior to this lawsuit, had access to The Bold Truth through Doubleday, How because Alex Haley thanked two people which he quotes were very close friends whom helped research in

completion of Haleys novel Roots (e.g P/F/W/O/C pg 55a & 56a) Naming George Sims and Murray Fisher, what is not said in Mr. Haleys acknowlegement is both his friends and is made clear when you view the petition for writ of Certoriari page 67a is both George Sims and Murray Fisher were employed editors on staff with Doubleday Publishing Co.

In reference to the four works at issue in the brief of opposition page 3, when you apply the second test to prove copyright infringment it is not necessary by plot, mood, sequence, themes etc. but by ideals of a manner of expression of fact, when you look at copyright law under these rules the Petitioner is protected from certain compilations, even though they are just compilations of facts that any of us could gather and these compilations can be considered ordinary phrases which are known as common to both generations. Example: pg 29a of Petitioners writ Mr. Bohrer quotes to the District Court "What Ms. Paul is saying is that each of these works in different ways some of them in common ways infringe on her copyright" Which shows in Respondents brief pg 3 and quotes in reference to all three works : "As such, The Bold Truth and the defendants works use many of the same phrases, words, and colloquial expressions commonly used" when you apply copyright protection in this manner the Petitioners Copyright claim of infringment proves the Respondents used her expressions showing substantial similarities in common phrases which make the manner of expression the critical issue. This is also agreed upon by the Respondents' see pg 17a of Petitioners Writ.

ARGUMENT

A. Certiorari should be granted where, the Petitioner can show discretion from the district court which resulted in an improper ruling from the Eleventh Circuit Court when affirming summary Judgment in favor for the Respondents'

Petitioner, Emma Lee Paul seek review from this court when the Eleventh Circuit Court was informed by the District Court that there were no Substantial evidence on record where the plantiff could prove that the defendants had access to her work which resulted in the Eleventh Circuit affirming the order in favor of the defendants summay judgment on lack of access alone. Certiorari is particularly appropriate in such a case when the factual dispute of substantial evidence filed on record by the plantiff was refused for consideration by the district court to prove her case due to discretion of that court when the District Court was totally unaware of the evidence on record simply because he told the Petitioner he did not want to go back and review it. (e.g. P/F/W/O/C pg 29a), Yet the same evidence the District Court denied the plantiff/ petitioner was considered and relied on by both the District court and the Eleventh Circuit court to prove the defense for the defendants win of summary judgment. "Realities must dominate the judgment--*Hughes: Appalachian Coals v. United States, 288 U.S. 344, 360"* Substantial evidence is more then a mere scintilla. It means such relevant evidence as a resonable mind might accept as adequate to support a conclusion--*Hughes: Consolidated Edison Co. Vs. NLRB, 305 U.S. 196,229.* Therefore found in Title 28 U.S.C. Judiciary and Judicial s2072 (a,b): a) the Supreme Court shall have the power to prescribe general rules of practice and procedure and rules of evidence for cases in the United States district courts (including proceedings before magistrates thereof and courts of appeals) b.) Such rules shall not abridge, enlarge or modify any substantive right. All laws in conflict with such rules shall be of no futher force or effect after such rules have taken effect.

B. The Eleventh Circuit did err in affirming the District Court's entry of Summary judgement where there is evidence on record sufficient for a jury to find Access by the respondents to the Petitioner's work.

Because the Plantiff/Petitioner has on record proof of ownership showing a valid copyright in this particular work, and is agreed upon by the Respondents, and the Petitioner can prove that the defendants had access to her work and show that the works are substantially similiar in protected expressions the Petitioner has proved her claim of copyright infringement. *"Golding v. R.K.O Pictures, Inc., 35 Cal.2d 690, 695 (1950)"* also see *" Mikek Holdings. Inc., v. Arce Engineering Co., Inc., 89 R.3d 1548,1553"* (47a pet/writ/cert) In reference to 5B of Respondents brief where it is said "Because the Eleventh Circuit did not reach the second issue, substantial similarity when they affirmed summary judgment for the defendants because the District Court said I, the plantiff had wholly failed to present evidence from which a jury could conclude Respondents had access to Plantiffs work. The ruling from the Eleventh Court is improper Because I the plantiff did present this evidence which was considered in the defense for the Respondents' only, and find that the Eleventh Circuit did err in Affirming the District Courts entry of summary judgment when Plantiff can show on record with the District Court Substantial evidence proving the interrogatories the courts relied on when granted in favor for the respondents to be untrue, and should be reviewed as such in the authority of the this court.

C. There Is Evidence of Substantial Similarities Of protectable Expression between the Plantiffs work and that of the Defendant

Because the Eleventh Circuit did not reach the issue of substantial similarity, and the Respondents' have convinced the District Court by a hearsay agreement by comparing the works in

question simply by: a) Plot and Theme b) Setting and Sequence of Events c) Mood d) Characterization and e) dialogue
I the Plantiff want to present the actual agreement by my resigned attorney (which only resigned due to a illness in which he had a stroke,) to prove what the actual claim (e.g. P/F/W/O/C pg 69a thru 74a) is when proving the similarities reviewed by copyright law which was my litery expressions which are protected, not by the above as the Respondents' request, but by the similarities between the two works which quote on pg 74a "The copying meets both the extrinsic and intrinsic tests of copyright infringement. The ordinary observer or listener or viewer would perceive subtantial similarity of protected expressions". The Respondents' keep reflecting that Queen and Emma came from two different lives but in reality they are the same, (see oppo/brief pg 3 etc.) On Page 549 of Queen Book Queen and Davis are talking, he quotes:

" Waren't you ever beaten? he asked her in surprise, and Queen felt almost guilty that she, a slave, had not suffered as other slaves."

page 579 of Queen : Both Emma and Queen heard of the bad things; In Quote: "The gossip that she heard intrigued her. She was told extraordinary stories of the black determination to take Washington at its reconstructing word, and grab for equality. She heard of strikes by city workers, or by field hands protesting their pay. She heard of riots and even small armed rebellions against civic authorities who were reluctant to put the new Federal laws into effect. She heard one story of an overseer in Georgia being forced off his plantation by the hands, who would not work for him."

Page 580 of Queen: Both Emma and Queen rely on God.
in quote: " Her faith kept her going, and she had the absolute conviction that God was directing her footsteps, and would bring her, surely and safely, to her promised land."

page 644 of Queen : Both Queen and Emma are related: Alec and Queen had a baby girl In Quote: " Another little girl was born to them, Emma, after Annie and Conway, but Emma died when she was three. She had been playing on the kitchen floor, and drank some lye, while Queen was hanging washing on the line. She died in great pain,"

No where esle is Queen's child Emma mentioned not even on the Television or Cassettes. Where does Queens birth of Emma fit in to the life of Alex Haley? In reference to page 10 d, The Respondents say the record contains no evidence whatsoever with regard to the Broadcast or Audiotapes. During the transcript October 10, 1996 it was agreed upon by the Courts Mr. Bohrer and Emma Paul that each work was the same and would be made three counts, what was in one should be found in the other. Reference is made to this in Petition for Writ of Certiorari page 86a/Yb. The Respondents' also said the names are common names used and bear no similarity, now go to the afterword by David Stevens (Pet/writ/Cert 78a) in quote: " I have invented an untimely death for him. In fact, he lived to a good age. Beyond that, almost all the people are where they should be almost all the time," 28 names can be found in The Bold Truth and in the works of Queen. As discussed on the previous page commcn names is protected expressions of the Petitioner, because the works are confessed to be all fictionalized how can Alex Haleys family have the same names as Emma Pauls family, and how can Queens book begin with the awlful presence of God and Emma Pauls book begin with in the presence of God, no author does it quiet the same way, ever. Another strange similiarity is the size of the familys when you view the similarities in a way of being common the expressions you'll come across is just to many. Keep in mind Emma Lee Pauls' life is real, Alex Haley's Queen is not.

CONCLUSION

I the petitioner did not ask you the Supreme to review my writ for Certiorari for reasons of mistakes or facts but of the discretion from the district court and after reviewing the Respondents' brief the answers to my questions are still unanswered, because these compelling questions of judicial discretion and questions of our Constitution of the United States and the Statues of this State have not been answered in reference to the case when the record for the Petitioner clearly shows and the Respondents' totally agree that the Petitioner is the one who filed on record interrogatory answers of Alex Haley that the Respondents' relied on as their defense to prove they had no access while on the otherhand the District Court and the Eleventh Circuit Court denied the Plantiff herself to use this same substantial evidence in which she filed and which raise disputed matters sufficient enough for a jury to find summary judgment unappropriate when the Plantiff can show ownership, can prove access by the Respondents', and show the Respondents' work is substantially similar to the Petitioners protected expressions. I Emma Lee Paul, Petitioner call upon you the Supreme Court for an exercise of your Court's power to review this case because the departure of this case from the District Court was unappropriate.

As Pro-se I ask this court to grant my case for review with the understanding I am aware to proceed I must be acompanied by legal counsel from the Bar. I am prepared and will be assisted by such counsel to persue this case further within your court. Parties appearing Pro-se are allowed greater latitude with respect of reasonableness of their legal theories. *"Patterson v. Aiken 111 F.R.D. 354, 358 [N.D. Ga. 1986]"*

Therefore I the Plantiff/Petitioner ask relief of this court and request the judgment entered for the Plantiff by the Plantiff in the Eleventh Circuit still stand in the amount of 100 million dollars

from the Respondents' and the Petitioner ask relief of this court to review the entire Petition for writ of Certiorari for the decision frustrates the intent of Congress and cannot be reconciled with that of the Eleventh Circuit in the United States Court of Appeals, leaving participants facing uncertainly over matters that go to the heart of copyright law. Because of the importance of the questions presented by that petition, this court should excercise its supervisory jurisdiction setting this case for review.

Respectfully Submitted,

Emma Lee Paul

Emma Lee Paul
1540 N.W. 203 St.
Miami, Florida, 33169
Phone (305)-653-4221

Pro-Se Petitioner